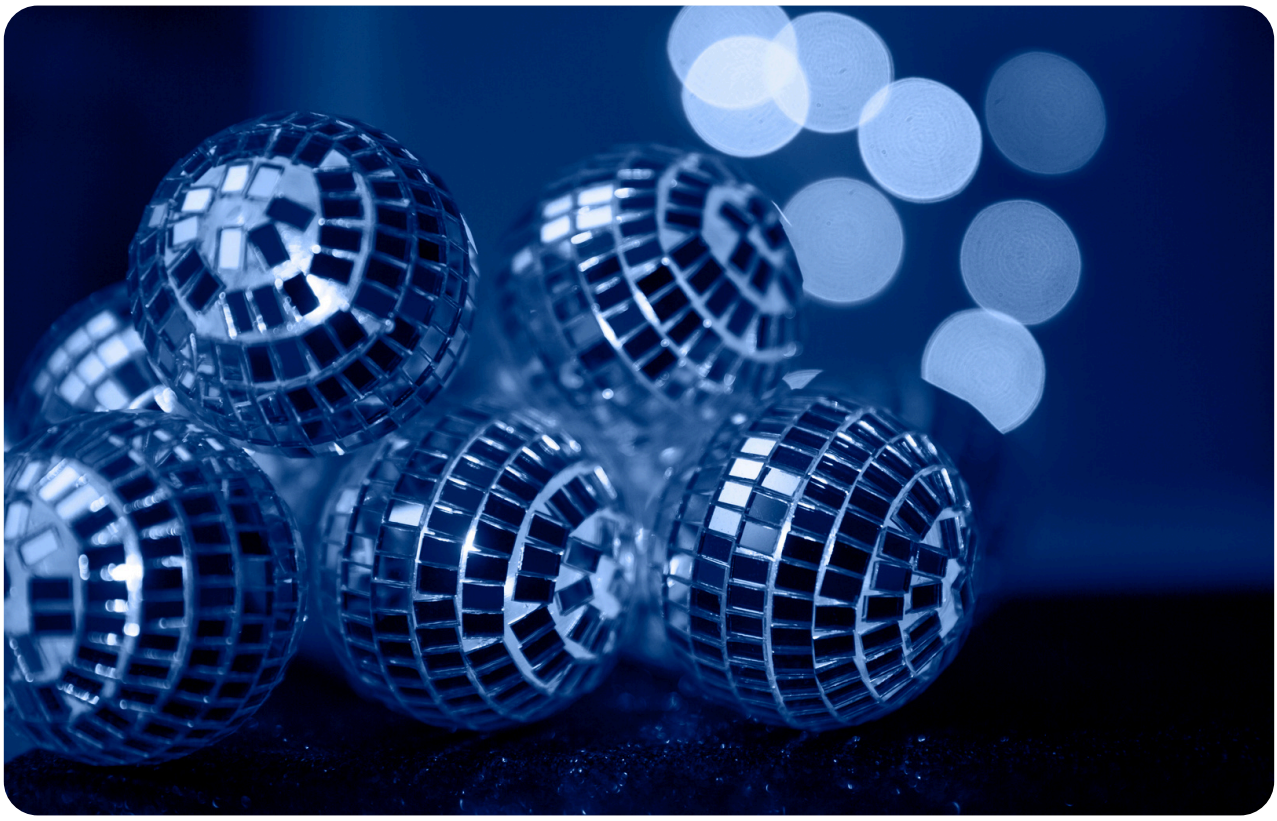
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FAQs

Music & the Law: Your Copyright Questions Answered

April 25, 2025



A recent study reports that the Indian music industry sees little over 46 crore daily streams and is expected to generate INR 3,700 crore in revenue by 2026.[1] With such rapid growth, protecting intellectual property (IP) is more crucial than ever, not only to prevent the exploitation of artists but also to support business expansion in the music space.

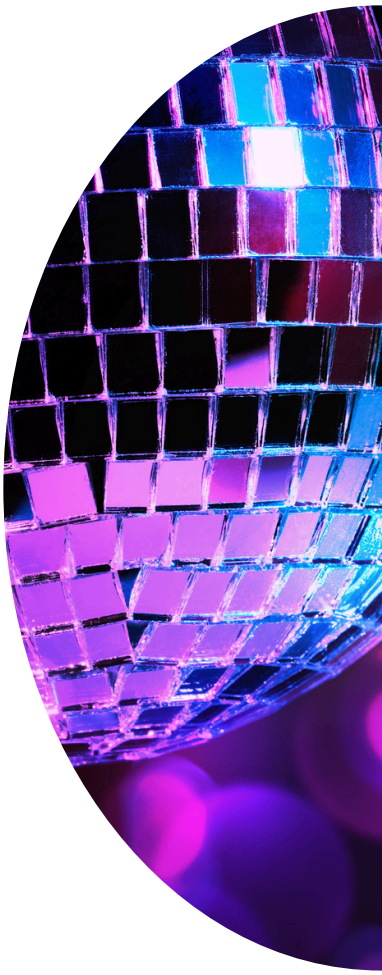
So, what kinds of IP are involved in music? The possibilities are vast. Many assume only lyrics or songs qualify for protection, but the industry is much broader, and so is the range of IP.

Copyright law protects the creators of sound recordings, musical compositions, and performers. Trademark law covers brand elements like band names and music labels. If you've invented a new musical instrument, it may be eligible for a patent, and its unique design can also be protected. Even the technology behind that ukulele-tuning app can be a subject matter of protection.

In this FAQ, we focus on copyright, answering common questions and explaining how it applies to the music industry.

1. Is registration of musical works or sound recordings required to claim copyright?

Copyright exists as soon as the work is created; no formal registration is required under the law to establish copyright. However, registering the work can be beneficial. Under the Indian copyright law, the Register of Copyrights serves as prima facie evidence of the particulars entered therein [Section 48 of the Copyright Act, 1957]. Documents purporting to be copies of any entries therein, or extracts therefrom, certified by the Registrar of Copyrights and sealed with the Copyright Office's seal, are admissible in evidence in all courts without the need for further proof or production of the original.



2. In addition to the authors of sound recordings and underlying works like lyrics and melodies, does Indian copyright law protect the rights of singers and other performers?

Yes, Indian copyright law protects the rights of singers, musicians, and other performers. These rights, including the right to make a sound or video recording of the performance, are covered under Chapter VIII of the Copyright Act, 1957. A performer's rights subsist for 50 years [Section 38(2) of the Copyright Act, 1957].



3. Can one prevent musical works from entering the public domain?

The duration of copyright protection is fixed by law and cannot be extended through private actions. Once the copyright term expires, the work enters the public domain and can be freely used without permission or royalties.

Under the Copyright Act, 1957, copyright protection lasts for 60 years. For literary works (like lyrics) and musical works (like melodies), this period is calculated from the beginning of the calendar year following the year in which the author dies. When it comes to sound recordings, the 60-year period starts from the beginning of the calendar year following the year of publication.

While you can't prevent a work from eventually entering the public domain, derivative works can still be created, and titles or phrases linked to songs may be registered as trademarks, subject to applicable conditions.

4. Does the assignment of copyright affect the author's right to claim authorship of the work?

No, the author retains the right to claim authorship of the work even after assigning the copyright, whether wholly or partially [Section 57(1)(a) of the Copyright Act, 1957].

5. Where a producer assigns the copyright in the musical works relating to a film without specifying a duration in the agreement, will the assignment be for an unlimited period?



If the copyright assignment agreement does not specify a duration, it is deemed to last for five years from the date of assignment [Section 19(5) of the Copyright Act, 1957].

6. If a copyright is assigned for five years, but the assignee does not exercise the rights within one year, can the assignor reassign those rights to someone else? Also, can action be taken against the assignee in such cases?

Yes, if the assignee fails to exercise the rights within one year from the assignment date, the assignment is deemed to have lapsed after that period, unless specified otherwise in the agreement. As a result, the assignor can reassign those rights to another party even before the initial assignment period ends. The assignor can take legal action against the assignee if the failure to make sufficient exercise of the rights is not due to the assignor's actions [Section 19A(1) of the Copyright Act, 1957]. A complaint can be filed with the Appellate Board (established under the Trade Marks Act, 1999), which may revoke the assignment after an inquiry.

7. Do legal heirs inherit copyright after the author's death?

Yes, upon the author's death, his/her legal heirs inherit the rights for the remaining duration of the copyright term. These heirs can license, assign, or enforce the copyright as needed.



8. If the manuscript of a musical work is bequeathed under a Will, does the legatee become the owner of the copyright therein?

If a musical work's manuscript is bequeathed under a Will and the work was unpublished before the testator's death, the bequest includes the copyright in the work, unless the Will or Codicil indicates a contrary intention [Section 20 of the Copyright Act, 1957]. This applies as long as the testator was the owner of the copyright immediately before his death.

9. Is the copyright of foreign nationals protected in India?

Yes, copyrights of nationals of countries that are members of the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention and the TRIPS Agreement are protected in India through the International Copyright Order, 1999.

10. How can music be protected internationally if it was created in India?

Copyright in India is only valid within the country's borders. However, Indian works automatically receive protection in other countries that are part of international copyright treaties. India is a member of several such conventions, including:

- Berne Convention for the Protection of Literary and Artistic Works.
- Universal Copyright Convention.
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.
- Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties.
- Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

Creators may also register their works in other countries for added protection.



In an industry as dynamic and fast-evolving as music, understanding and protecting intellectual property is crucial for creators and businesses alike. Copyright law offers a robust framework to safeguard the rights of musicians and other stakeholders, ensuring that their works are respected, properly credited, and monetised.

Whether it's securing the rights to sound recordings, compositions, or performances, the tools available can help protect creative efforts from unauthorised use.

By staying informed about copyright law, musicians and creators can better navigate the complexities of intellectual property and maximise the value of their work. With the right knowledge, they can secure their creative legacy for years to come.

For further queries, you may reach out to our IP Team at info@foxmandal.in