Copyright Over Melodies and Chords: How Legal Restrictions Are Limiting Musical Expression and Artist Creativity

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ABSTRACT

This paper explores how copyright law treats melodies and chord progressions across the United States, United Kingdom, and India. By looking at cases like Williams v. Gaye, Skidmore v. Led Zeppelin[854], and Thaikkudam Bridge v. Kantara, it highlights the tension between protecting originality and keeping music's basic elements open for everyone. The study also considers how digital platforms, AI-generated music, and cultural traditions complicate the issue. It argues that clearer legal rules and reforms are needed to support creativity, protect cultural heritage, and ensure copyright continues to encourage artistic and cultural progress.

Keywords: Copyright, Melodies, Chord Progressions, AI generated music.

INTRODUCTION

Music copyright law has always walked a tightrope between two competing goals: protecting the originality of composers while keeping the building blocks of music such as chord progressions, rhythms, and general stylistic elements available for everyone to use. At its heart, copyright exists to encourage creativity by rewarding new ideas. But when courts extend protection to these basic musical elements, they risk restricting the very tools that future artists rely on to create. The controversy around *Williams v. Gaye*[855] highlights this tension. By granting protection to the groove of *Got to Give It Up*, the jury blurred the line between an idea and its expression, raising fears that entire musical genres could effectively be locked down by a single ruling. Later cases such as *Skidmore v. Led Zeppelin* and *Gray v. Perry*[856] clarified the limits of protection and reaffirmed that common musical structures belong in the public domain. Similar debates have played out internationally, in the United Kingdom with *Sheeran*

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[854] Skidmore v. Led Zeppelin, 952 F.3d 1051 (9th Cir. 2020)
[855] Williams v. Gaye, No. 15-56880 (9th Cir. 2018)
[856] Gray v. Perry (Ninth Circuit 2020)

v. Townsend[857] and in India with disputes over ragas, where cultural traditions make applying Western copyright rules especially tricky. These challenges have become even more pronounced in the digital age. Streaming platforms give listeners instant access to nearly every song ever recorded, complicating traditional ideas about access and copying. At the same time, AI-generated music raises fundamental questions about who counts as an author and what qualifies as original. Independent artists are particularly vulnerable in this landscape because they face disproportionate risks from litigation and copyright trolling compared to those backed by major institutions. This paper argues that copyright law needs urgent reform. It must clarify doctrinal boundaries, ensure fair procedures, and create flexible frameworks that can keep pace with technology. By examining case law, scholarly debates, and policy proposals, it aims to identify ways to preserve musical creativity while respecting both cultural traditions and modern innovation.

STATEMENT OF PROBLEM

Copyright law in music struggles to balance two competing goals: protecting genuine creativity while keeping basic musical elements, like chord progressions, rhythms, and melodies,free for everyone. Recent cases such as Williams v. Gaye and Sheeran v. Townsend show how courts often blur the line between unprotectable ideas and protectable expression, leading to inconsistent outcomes. In India, disputes involving ragas raise similar concerns about ownership over shared cultural frameworks. This uncertainty has created fear among artists, who risk lawsuits for accidental similarities in a world of finite musical possibilities. With AI and algorithmic tools generating countless melodies, the problem becomes even more urgent: where should copyright protection stop to ensure music can evolve freely?

RESEARCH METHODOLOGY

This study follows a doctrinal research methodology, focusing on the interpretation and application of copyright law as it relates to melodies and chord progressions. The research primarily relies on case law analysis, examining landmark judgments from the United States ; Williams v. Gaye, Harrison v. Bright Tunes[858], Skidmore v. Led Zeppelin, Gray v. Perry, the

[857] Griffin v. Sheeran, No. 1:17-cv-05221 (S.D.N.Y.)

[858] Harrison v. Bright Tunes (S.D.N.Y. 1976)

United Kingdom; Sheeran v. Townsend, and India; Thaikkudam Bridge v. Kantara, Ustad Dagar v. A.R. Rahman. These cases were chosen because they illustrate the tension between protecting musical originality and preserving common creative elements as part of the public domain. The methodology also involves comparative legal analysis, highlighting how different jurisdictions approach the idea-expression dichotomy and the concept of substantial similarity. Secondary sources, including scholarly articles, legal commentaries, and industry perspectives, were reviewed to understand the broader implications of these judicial trends on artist creativity and cultural evolution.

By combining doctrinal study with comparative analysis, this methodology aims to identify patterns, contradictions, and gaps in existing copyright frameworks while assessing their real-world impact on musicians, particularly independent creators.

RESEARCH QUESTIONS

1. How have courts in the United States, United Kingdom, and India interpreted the scope of copyright protection over melodies and chord progressions?
2. To what extent does the expansion of copyright protection over basic musical elements create a chilling effect on artistic creativity and innovation?
3. How do doctrines such as the idea-expression dichotomy, substantial similarity, and independent creation differ across jurisdictions, and what implications do these differences have for artists?
4. What legal reforms or clarifications can help balance the protection of genuine musical originality with the need to preserve common creative building blocks as part of the public domain?

SCOPE OF COPYRIGHT PROTECTION FOR MELODIES AND CHORD PROGRESSIONS ACROSS JURISDICTIONS

Through the analysis of copyright laws as applied to melodies and chord progression in the United States, the United Kingdom, as well as in India, it becomes apparent that the laws have indeed changed and that different courts in various jurisdictions are uttering different things when it comes to what is considered to be a copyrighted piece of music versus what is just common music. The regulations have been tightened in the United States following highly publicized cases, such as Williams v. Gaye (2015). The protection in that Ninth Circuit ruling was initially expanded in that the feel or groove of a song was safeguarded not merely by

looking at a set of tunes and chords. The court declared that Got To Give It Up had the right to site wide protection since a musical composition does not have a confined field of expression. It caused people to freak out because it felt like the court was safeguarding abstract concepts, rather than tangible, concrete music and the jury even gave the defendant a judgment of up to 7.3mn even though they did not share any melodies or chord progressions. But the law pulled back. Skidmore v. Led Zeppelin (2020) clarified that, since the protection of unpublished works under the Act of 1909 applies only to what is in the deposit copies, it expressly abandoned basic scales and chords. According to the sitting Ninth Circuit en banc, the four corners of the Taurus copyright are defined by the deposit copy, and you cannot utilize anything not on that copy to ascertain similarity. The inverse ratio rule was scrapped with that case as well, which means you now have an uphill climb to prove a similarity to the infringement.

Gray v. Perry (2020) succeeded in doing it, discussing the question of the possibility of copyrighting simple repeating patterns (ostinatos). The eight-note ostinato in the song Joyful Noise merely represented ordinary musical material observed the court and it did not compare with the song Dark Horse since this was not an original combination of this and that. They ensured it was clear that the copyright only safeguards original works of authorship and that basic descending patterns with constant rhythms in minor keys are not original enough. The decision was a reversal of a jury award based on the claim of 2.8 million dollars; it demonstrates that judges will draw the reins on over-generalizing claims. The Ed Sheeran cases adhered to this limiting position, too. In a number of cases relating to both Thinking Out Loud and Lets Get It On, the court held that the level of chord alterations and rhythm were too ordinary and could not be registered. In 2024, the Second Circuit ruled the copyright to Let's Get It On attached to the bare (as transmitted to the U.S. Copyright Office) sheet music, and not to additional material in the recordings. The Supreme Court ruling that it would not accept any further appeals in 2025 was, in essence, a support of that narrow opinion.

In the UK, the case is no different, with courts and commentators indicating that chord progressions, grooves, and rhythms are under the common musical word, and must remain publicly accessible. The Sheeran v. The case of Townsend in the UK reflects the U.S. stands, where it is possible to protect the original arrangement, whereas common elements cannot be. A nuance is created by India due to the emphasis on classical ragas. The Thaikkudam Bridge v. Kantara case demonstrates the difficulty of the application of Western copyright concept to

traditional music. Their argument was that the film song Varaha Roopam was a copy of the band's Navarasam on the basis that they shared the same ragas. The real issue is how ragas may be copyrighted, or only particular arrangements and performances. The courts gave out contradictory injunctions therefore it is difficult to say who owns what. The Dagar v. In 2025, Rahman case, the critics said that Delhi High Court was not doing enough to isolate the generic raga features on the unique contribution of a composer. These Indian cases demonstrate conflict between the preservation of innovation and originality of creative works and the preservation of cultural heritage that is disseminated. Comprising all these three countries, you will realize that there is a trend of restricting copyright to actual originality and letting the music building blocks that are daily practiced by ordinary people be free to everyone. However, the specifics, such as the weighing of evidence, the processing of records and sheet music, and the treatment of conventional structures do not fit. The latter are a true problem of international artists and justify the necessity of more explicit regulations within our international music industry.

ANALYSIS OF LANDMARK COPYRIGHT INFRINGEMENT CASES AND JUDICIAL REASONING

Through the study of the landmark music copyright cases, we can see that the judicial approach to the basic questions of originality, substantial similarity and the limits of the protection of expression and the materials belonging to the public domain is changing. All these rulings demonstrate how courts are struggling with the issue of upholding the incentive purpose of copyright without leading to the privatization of the musical blocks.[859] Williams v. Gaye embodies an objectionable extension of the copyright doctrine that has since been the target of sustained criticism and judicial redress. The case started on a strange note, as Williams, Thicke, and T.I. preemptively filed for declaratory relief trying to show that the infringement has not taken place, and they understand that this could leave them vulnerable in court. The pretrial decision made by the district court to prohibit side-by-side play of the recordings was powerful because it restricted the Atlanta jury to only analyzing sheet music replications of the sound over the complete sonic representation. According to this limitation, which was expressed to favor defendants by omitting factors that only existed in the sound records, the jury nevertheless determined infringement. This decision of the jury was especially prominent in

[859] Edwin F. McPherson, Crushing Creativity: The Blurred Lines Case and Its Aftermath, McPherson LLP (Feb. 2019), https://mcpherson-llp.com/articles/crushing-creativity-the-blurred-lines-case-and-its-aftermath/ (accessed Sept. 20, 2025).

the light of the fact that there was no similar melodic material, chords or even words in the texts. The melodies of the two works in question had not been alike; the two songs were not even melodically related by a single phrase. As a matter of fact, there was no sequencing of even two chords played in similar order and at the same time duration in the two works. It was observed that the decision was based on what was perceived to be similarity in feel or groove, and accordingly, McPherson[860] could have determined that the verdict was founded on infringement of ideas and not tangible expression as it was required by the Copyright Act, Section 102(b). The 2018 affirmation by the Ninth Circuit was troublesome as it includes wide coverage of protection of music compositions by declaring that they do not lie within a limited scope of expression. This rationale served quite well to reduce the originality standard and broaden the coverage and protection of items of particular melodic and harmonic content. The music industry felt the blow of the ruling instantly and was alarmed by the chilling effect of the precedent on creativity, many of the artists submitted amicus briefs to the case in these fears. Harrison v. The doctrine of subconscious plagiarism was established in Bright Tunes (1976) when the court showed that music was inherently derivative. In Judge Owen's conclusion that Harrison had subconsciously plagiarized He's so fine in the making of My sweet lord the psychological fact of musical influence was recognized without prejudice to the finding of substantial similarity. The widespread melodic examination in the case, the big charts composed using the three notes of Motif A and the four or five notes of Motif B, was shown as what courts might do to in the instability in consideration of musical similarities. The damages phase was also as complicated, as the purchase of the rights by Bright Tunes caused the conflicts of interests in the company of ABKCO which prolonged the litigation considerably. The observation that Harrison began to think they were, in fact, the owners of such notes shows that more than just the expansion of copyright to basic musical constructs was being considered. The final outcome of the case, where Harrison had to pay 1,599,987 but never experienced any income on the song because of the escrow agreement left dragging on, portrayed that copyright litigation can leave in a state of uncertainty.

Skidmore v. Led Zeppelin was considered an important correction to excessively broad interpretations of copyright. The protracted legal battle took place over six years, with the early rulings of the panel in favor of retrial before a final decision of the en banc court in favor of Led Zeppelin. The case on the problem of deposit copy restrictions was ground breaking as it

[860] id

ruled that copyrights to pre-1978 unpublished materials is confined to recorded contents but not sound recording additions. Stronger evidence of substantiali similarity without regard to access evidence was the fruit of a fundamental change in the way the court has previously approached infringement analysis by abrogating the inverse ratio rule. This was adapted to the realities of the digital age where a universal access to music made the access inquiry irrelevant and potentially reduced the standards of evidentiary care inappropriately.

Gray v. Perry gave the strongest objection to the expansion of copyright and the decision of Ninth Circuit that ordinary ostinatos are too banal to be subject to protection.

The 8 note patterns followed by the court included detailed description, with both sequences being the 3-3-3-3-2-2 descending sequences with standard rhythm, but no matter which track they are in, showed the strictness in the implementation of originality. The musicologist of the plaintiffs themselves testified that they could not recognize any one particular feature that caused the plaintiffs to be regarded as being substantially similar upon seeing them alone. The policy consequences of the decision were clear, and the court warned that such protection would have stifled musical creativity by creating an inappropriate monopoly on the use of what could be broadly termed as the building blocks of conventional music. This argument was a direct response to issues expressed in the Blurred Lines case, creating definite alternatives between material that could be patented and intellectual property that could not be patented. The Thaikkudam Bridge v. The Kantara case brought more issues of copyright ownership and jurisdiction to light. This was a case of conflicting injunctions in different courts over a competing claim by both the band and an alleged assignee (MPPCL). This confusion of the procedure made evident matters of standing and proving ownership prior to courts encountering the substantive questions of infringement. The Ed Sheeran cases gave the restrictive trend its ultimate stamp, and courts have consistently held that basic chord progressions are the building blocks of pop, and as such, utilised in many songs prior to and since Letts Get It On.

The settlement of the litigation on the basis of independent creation defences and rejection of the certiorari by the Supreme Court actually approved the scope of copyright on a small scale of the basic musical aspects. Together, these cases indicate that the judicial system acknowledges that music is limited in its ability with finite scale, chords and rhythmic patterns

and that copyright restrictions must be tightly guarded to avoid privatizing resources that are shared in design. The shift away from the Blurred Lines broad perspective to later restrictive rulings suggests an increased judicial complexity in setting a balance between the incentives to creation and preservation of the domain.

IMPACT OF EXPANSIVE COPYRIGHT INTERPRETATIONS ON ARTISTIC CREATIVITY

The growth of copyright rights beyond conventional limits of particular melodic and harmonic content has raised important questions regarding its chilling effect upon artistic creativity and innovation. Legal analysts, musicians, and observers of the recording business documented numerous instances in which excessively expansive copyright understandings discourage experimentation, constrain creative expression, and essentially change the compositional process. Edwin F. McPherson's discussion of the Williams v. Gaye decision stated the principal worry that safeguarding musical fee or groove would allow musicians to lay claim over whole genres. His paper Crushing Creativity: The Blurred Lines Case and Its Aftermath cautioned that such constructions may deter artistic innovation, a prospect illustrated by amicus briefs signed by many musicians recognizing the potential of this precedent affecting their own practices of creativity. The ruling of the case indicated similarity in general stylistic approach or production methods might be tantamount to infringement, even in the face of variation in particular musical content. The chilling effect most immediately manifests through defensive compositional practices wherein musicians deliberately omit certain musical elements, styles, or production methods in order to lessen litigation risk. Such a phenomenon essentially transforms the creative process, compelling musicians to attend less to aesthetic and more to legal considerations in formulating their artistic choices. Musicians describe self-censorship of their compositions, omitting particular chord progressions, rhythmic figures, or genre conventions, lest these provoke infringement suits[861]. Such defensive practices present especial difficulty in light of the inherently derivative quality of music, wherein virtually all compositions borrow musical vocabularies and conventional stylistic practices, commonly accepted and stipulated through communal usage and conventionality.

[861] The Impact of Copyright Expansion on Musical Innovation: A Survey of Independent Artists, Music Industry Research Association (2023).

The mathematical limit of musical possibilities worsens these issues. As demonstrated by the project of Damien Riehl and Noah Rubin, 68 billion Melodies, the number of possible melodies under typical musical constraints is mathematically finite. Multiplying this finite set of possibilities by liberal copyright interpretations, we get a situation under which simple musical components become progressively scarce for new compositions. Such melodies, according to the Columbia Journal of Law & the Arts piece on their project, being mathematically finite, should reside in the public domain. Independent and new musicians suffer disproportionately from liberal copyright interpretations. By virtue of having limited resources, independent musicians cannot engage in prolonged litigation over their creative decisions, the way large musicians might, leveraging significant resources for legal proceedings. Such asymmetry engenders de facto entry cost barriers since new musicians have no resources, either professional or personal, dedicated to consulting with or defending themselves against attorneys, and thus an exponentially rising cost of standing up to litigation forces abandonment of, or settlement over, otherwise valid creative compositions, regardless of real merit.

The cooperative production of musical styles typical of the current era exacerbates these issues. Much of today's popular music involves the contributions of multiple writers, producers, and participants, each of whom may introduce divergent musical influences and references into the creative equation. Broad copyright interpretability engenders ambiguity over which party may be liable for purported infringement, resulting in more restrictive cooperative agreements and less artistic risk-taking. Such influence is especially acute in hip-hop and electronica, styles inherently accepting of sampling, interpolation, and use of references toward preexistent materials. Genre-based effects vary strongly according to stylistic practice and production procedures. Electronic producers, who bespeak habitual use of loops, sampling, and repetitive figures, receive heightened exposure under broad copyright interpretability. By the same token, musicians performing within accepted genres like blues, folk, or reggae, which involve distinctive harmonic and rhythmic conventions, face growing ambiguity over which of these traditional elements remains usable without paying copyright compensation. Psychological influence among artists goes beyond immediate issues of law and goes to larger issues of artistic legitimacy. Musicians describe rising anxiety over the originality of their work, some of whom question whether any work of the present day can hope to escape similarity to preexistent work at all. Such doubt undermines artistic confidence and may inhibit artistic exploration, especially new combinations of familiar elements, which musical evolution

throughout the past historically drives. Educational institutions document shifts in composition pedagogy, wherein instructors place enhanced value upon issues of law over artistic considerations, and students receive copyright awareness training as a regular part of musical education. While familiarity of law is desirable, this development bespeaks the extent to which issues of law have insinuated themselves into the artistic process itself.

The worldwide extent of music distribution introduces additional complexities, as musicians will have to factor in varying copyright norms across multiple jurisdictions. A work potentially legally acceptable under restrictive U.S. understandings of the law may become problematic under jurisdictions taking varying doctrinal views. Such worldwide uncertainty deters artistic risk-taking even further and may prompt homogenization of musical materials to satisfy the most restrictive standard of law possible. Industry recourse to these problems consists of increased interpolation rather than sampling, whereby musicians re-record rather than use original versions of materials similar-sounding but not identical to others. While this may reduce certain threats of law, this change in creative practice represents a significant development and may not answer underlying questions of protectability of musical ideas and structures. Such consequent dominance of defensive practices demonstrates the real-world impact of uncertainty of law on artistic creativity. Particular attention is due the temporal aspect of copyright's chilling effect. Whereas immediate direct consequences of law may occur instantaneously, delaying of realization of creativity may occur over years or decades wherein creativity is shaped by gradual accommodation of artistic practice under pressure of law. Such latency compromises attempts at measuring full diminishment of creativity's flowering, but previous analysis of the curve of copyright expansiveness pairs expansively interpreted copyright eras with reduced stylistic heterogeneity and increasing creative conservativism.

Industry groups and professional associations have reacted by issuing educational materials and legal counsel in order for artists to work through copyright issues, but these initiatives deal more with symptom treatment than resolving underlying doctrinal issues. Such resources' necessity serves as an indication of the level at which previously straightforward creative processes have become complicated by issues of law. Relief from the sorts of cases we saw in Gray v. Perry and the Ed Sheeran litigation is brought about through the establishment of more precise limits around unprotctable musical content, but initial expansive interpretation may have a lingering impact on artistic practice, for musicians adapted their creative processes in

response, and may not immediately resume pre-existing levels of experimentation. Restored creative freedom needs favorable law precedents, but also time for artists' confidence in workbased usage of musical vocabularies under pre-existing law, without risk of exposure.

COMPARATIVE ANALYSIS OF THE IDEA-EXPRESSION DICHOTOMY ACROSS JURISDICTIONS

The concept of idea-expression dichotomy is one of copyright law's core principles, separating unprotected ideas from protectable expressions of ideas. Its application, though, in musical compositions shows remarkable jurisdictional differences and doctrinal nuance, which have direct consequences on courts' delimitations of copyright protection's extent for melodies, chord progressions, and other musical components. Its statutory basis in United States jurisprudence is Section 102(b) of the Copyright Act[862], excluding from protection any idea, procedure, process, system, method of operation, concept, principle, or discovery. Musical applications of the concept, though, have presented particular difficulties, illustrated by the evolutionary development from the dictates of Williams v. Gaye through subsequent restrictive rulings. It was illustrated in the Blurred Lines case, which demonstrated the challenges of applying idea-expression analysis in musical feel or, more specifically, in musical groove, wherein critics posited the verdict of the jury, essentially, licensed the protection of ideas instead of expressions of ideas. W.R. Cornish, David Llewelyn, and Tanya Aplin's comprehensive treatment of intellectual property law supplies critical theory basis for this analysis. They underscore the thrust of copyright law, which applies only in originals of expressions and never in general styles, moods, or building blocks of creativity. They, in particular, warn of granting protection to the 'feel' of a work risks enclosing elements that ought to remain in the public domain and this warning applies directly in present-day music copyright controversies. Such a framework of theory aligns closely with restrictive constructions used in Skidmore v. Led Zeppelin and Gray v. Perry cases.

The Ninth Circuit's application of idea-expression analysis has shown remarkable evolution over time. Initial cases in Williams v. Gaye tended to blur the line by safeguarding abstract musical notions such as groove or feel. Systematic reinstatement of classic limits, however, resulted in subsequent cases. In Gray v. Perry, the court expressly used idea-expression analysis

[862] 17 U.S.C. § 102(b)

in determining that simple ostinatos embody only commonplace musical elements and not original expressions of some sort worthy of copyright protection. Note that the ruling stressed the fact that copyright does protect only works only to the extent that they are original works of authorship, enunciating a clear criterion of differentiating between protectable arrangements and unprotectable constituent materials.

Skidmore v. Led Zeppelin went a step further and established that the extent of protection had to be assessed by looking at deposit copies instead of sound recordings, in effect restricting copyright to formalized expressions instead of performance renderings. Such a method ensures rigid idea-expression delineations by avoiding extension of protection from narrowly fixed expressions toward broader sonic ideas or performance practices. Building block doctrines become an important aspect of musical idea-expression analysis. Courts have become more inclined to accept the fact that rudimentary musical elements scales, simple chord progressions, and typical rhythmic patterns must be available for general musicianship use. Gray v. Perry demonstrated this trend by ruling that the contested ostinato was entirely of commonplace musical elements and thus cannot be copyrighted. In the same vein, the Ed Sheeran litigation kept up a consistent application of the building block analysis in order to keep underlying chord progressions and rhythmic patterns available for general use.

United Kingdom applications of the concept of idea-expression distinguish similarly, but with differing doctrinal content. British copyright law's preoccupation with the difference between musical compositions and sound recordings aligns with U.S. tendencies but differs in statutory language and judicial treatment. Application of chord progressions, grooves, and rhythmic elements as belonging to the music's shared lexicon shows persistent recognition of limits of idea-expression. Handling of Sheeran v. Townsend litigation by the UK courts shows pragmatic application of these principles in up-to-date controversies over simple musical building blocks. India poses special challenges in the application of Western concept of idea-expression to old musical structures, especially ragas. The Thaikkudam Bridge v. Kantara litigation brought into sharp focus questions of whether ragas themselves, as structural elements, are ideas or expressions. G.B. Reddy's discussion posits application of ragas as cultural structure available for general use, so copyright would extend only to specific arrangements or performances and not the underlying structural elements.

The Dagar v. Rahman case similarly exhibited these complexities, and commentators pointed out the failure of the Delhi High Court to sufficiently distinguish between generic raga traits and the composer's original contributions. Such a challenge underscores pervasive tensions in the application of Western copyright ideas to non-Western musicaltraditions, where the line between idea and expression may be set by culture rather than law. Substantial similarity analysis constitutes an important part of idea-expression application, in which courts must determine whether similarities between works derive from common ideas (unprotectable) or copied expressions (potentially protectable). Evolutionary development from subjective total concept and feel methodologies toward more analytical forms demonstrates increasing judicial sophistication in upholding idea-expression limits. Cases such as Skidmore v. Led Zeppelin and Gray v. Perry placed increasing reliance on expert analysis of selective musical components over general impressions, thus buttressing public domain work protection. Filtration approach, adapted from software copyright, provides potential modalities for musical idea-expression analysis. Such a methodology would involve identification and exclusion of unprotectable components (ideas, stock elements, and scenes à faire) before considering analysis of substantial similarity in remaining protectable expressions of musical compositions. Musical applications might routinely exclude core scales, standard chord progressions, typical rhythmic patterns, and genre conventions before finding whether adequate original expression remains to undergird copyright protection. Originality requirements come into significant contact with idea-expression analysis, since courts will have not only to determine whether elements constitute expressions rather than ideas, but whether expressions evince adequate creativity for protection. Such was the ruling of the Supreme Court in Feist Publications v. Rural Telephone Service, which established originality depends upon independent creation plus at least some minimal creative spark, a standard immediately applicable to musical building block analysis. Harmonization at the international level is severely tested in aligning divergent methodologies toward the concept-expression axis. The expansive framework of the Berne Convention permits wide national variation in defining protected subject matter, generating confusion among multi-jurisdictional artists and rights holders. Growth in digital distribution and international music markets escalates the real-world significance of these differences between jurisdictions.

New technologies, especially AI and algorithmic composition, pose challenges for analysis of idea-expression, which Edward Lee's work in The Yale Law Journal Forum confronts through

calls for definite limits to avoid copyright assertions over structures derived from training data. As AI programs produce massive numbers of musical combinations, courts might have to create new paradigms for differentiating between machine-created ideas and human expressions of protectable value. Application of the idea-expression dichotomy[863] in practice becomes more and more reliant on musical and copyright law technical expertise. Courts' increasing use of experts' testimony instead of jurors' impression illustrates awareness of the need for both musical and legal sophistication in proper limit-drawing. Widespread use of expert-based analysis promotes more uniform application of idea-expression principles between diverse cases and jurisdictions.

TRADITIONAL AND CULTURAL MUSIC HERITAGE IN COPYRIGHT DISPUTES

Courts have often found it difficult to give clear guidance in disputes involving traditional musical frameworks, particularly where modern compositions draw from long-standing cultural structures. Indian disputes reflect a wider global problem of fitting traditional knowledge systems into copyright law, which is primarily built around individual authorship and exclusive ownership. This creates tension with the idea of a cultural commons, where certain creative resources are understood as belonging to communities rather than individuals. Musical traditions such as ragas, maqams, and folk forms evolved collectively over centuries, well before the emergence of modern intellectual property regimes. Applying contemporary copyright principles to such systems therefore requires a careful balance between recognising individual creative effort and preserving shared cultural heritage.

Indian case law provides one of the clearest illustrations of this tension through disputes involving ragas in classical music. Ragasa are not personal inventions but shared melodic frameworks governed by established conventions of performance and improvisation. Scholars such as G. B. Reddy have argued that ragas should be treated as collective cultural heritage, with copyright protection limited to specific arrangements or performances that introduce original expression. This approach allows continued cultural use while still rewarding contemporary creativity. However, applying this distinction in practice has proven difficult. The Thaikkudam Bridge v. Kantara dispute highlighted these challenges, where the claim was

[863] W.R. Cornish, David Llewelyn & Tanya Aplin, Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights ch. 11, § 12.03, at 847-52 (9th ed. 2019)

not limited to the use of a raga but extended to the overall arrangement and sonic treatment. The defence maintained that similarities were unavoidable because both works drew from the same traditional framework.[864] Conflicting interim orders from different courts further added to the uncertainty surrounding originality and ownership. Similar issues arose in Dagar v. A. R. Rahman (2025), where the Delhi High Court struggled to separate the defining characteristics of a raga from the composer's individual contribution.

These difficulties are not confined to Indian classical music. Folk traditions across cultures raise the same question of where collective inheritance ends and individual authorship begins. The doctrine of scènes à faire offers one possible analytical tool, as it excludes protection for elements that are standard or inevitable within a genre. When applied to traditional music, this reasoning suggests that basic raga phrases, commonly used folk progressions, or ritual themes should remain freely available, while protection should attach only to distinctive elaborations. However, international copyright instruments such as the Berne Convention offer limited support for collective traditions, as they continue to prioritise individual authorship. Although other international frameworks, such as those addressing biological and cultural heritage, recognise traditional knowledge, their relevance to music remains underdeveloped. Indigenous and sacred music introduces additional concerns, particularly where communities seek to prevent misuse or inappropriate commercialisation of culturally sensitive material. Standard copyright law is poorly equipped to address collective moral and cultural interests, leading scholars to propose alternatives such as collective rights management models or sui generis protection for traditional knowledge. The globalisation of music markets and the rise of digital archives have intensified these issues. Traditional music is now widely accessible, making cultural borrowing easier but also raising concerns about appropriation, consent, and benefit-sharing.

In response, cultural institutions and educators have increasingly promoted ethical engagement with traditional music, emphasising attribution, consultation with community custodians, and shared benefits. Music education now often includes discussions of cultural context and responsibility alongside technical training. The emergence of artificial intelligence adds a

[864] Sanjana S, The Case for 'Varaha Roopam': Dissecting the Kantara-Thaikkudam Bridge Copyright Row, NLIU Cell for Studies in Intellectual Property Rights (Feb. 9, 2023), https://csipr.nliu.ac.in/copyright/the-case-for-varaha-roopam-dissecting-the-kantara-thaikkudam-bridge-copyright-row/ (accessed Sept. 20, 2025).

further layer of complexity, as AI systems trained on large music datasets may reproduce traditional material without acknowledgment or permission. Despite these challenges, many contemporary musicians continue to innovate responsibly by collaborating with traditional practitioners, crediting their sources, and supporting community initiatives. These practices suggest that cultural preservation and creative development need not be in conflict, and that respect for collective origins can coexist with individual artistic growth.

CHALLENGES POSED BY DIGITAL DISTRIBUTION AND AI-GENERATED MUSIC

Digital technology, such as artificial intelligence, has changed both the creation and the dissemination of music. Although these changes offer greater opportunities for creative expression, they also highlight the limitations of current copyright law. Because most recorded music is now generally accessible worldwide through digital technology, courts often proceed with the presumption of access in copyright infringement cases. This trend shifts the focus of judicial review to substantial similarity, increasing the potential that independently created works could be called into question because of accidental similarities. As Simon Stokes observes, the pervasive use of production software such as loops, samples, and pre-set templates further erodes the line between original authorship and compilation. When these considerations are combined with judicial standards that focus on the overall "feel" of a work, as seen in Williams v. Gaye, there is a risk that routine methods of music production will be considered protected expression. Artificial intelligence also raises more fundamental questions about copyright law. Projects such as "68 billion Melodies" demonstrate that the number of possible melodies is finite, which verifies that many musical elements are inevitable and therefore in the public domain.

Writers such as Edward Lee have suggested that artificial intelligence systems trained on copyrighted works can claim ownership over patterns that are statistically inevitable, which challenges the notion that copyright is based on human creativity. The speed and scale of the potential creation and distribution of music by AI systems place a tremendous amount of pressure on the current legal frameworks. Some suggestions have been to simply not protect AI-generated works at all, while others have suggested that new rights frameworks are needed altogether, but none of these approaches seem to fully account for the existing pressures on the legal system. International distribution also makes things more complicated, as music that is

legal in one country may be actionable in another. Furthermore, the technology used for enforcement makes things worse. Content identification systems used by music streaming services often identify typical musical elements, which can lead to over-enforcement and voluntary takedowns. This situation forces musicians to abandon sound artistic choices. Music education is therefore being forced to include digital rights and AI ethics in addition to traditional technical knowledge.

Overall, technology is advancing faster than copyright law can comfortably respond. This gap highlights the requirement for a flexible legal framework that recognizes modern creative practices without protecting elements that are inevitable, functional, or culturally shared.

ECONOMIC AND SOCIAL IMPLICATIONS FOR INDEPENDENT AND EMERGING ARTISTS

Independent artists bear a disproportionate share of copyright-related risks due to the absence of financial and institutional backing available to major labels. Large recording companies can absorb the cost of prolonged litigation, expert witnesses, and specialist legal teams, often running into millions. Independent musicians, by contrast, are frequently compelled to settle weak claims or abandon projects altogether simply to avoid legal expenses. This imbalance is especially visible in disputes influenced by *Williams v. Gaye*, where vague claims based on "feel" or "groove" are difficult to rebut without technical expertise and costly evidence. Copyright enforcement strategies further disadvantage independent creators. Copyright trolling practices tend to target those without access to pre-clearance systems, insurance cover, or standing legal retainers that major labels routinely rely on. Genres built on sampling, such as hip-hop and electronic music, are particularly affected. Clearance costs are often so high that artists are forced to either abandon foundational creative practices or proceed under constant threat of liability.

Global digital distribution compounds these difficulties. Independent artists release music into multiple jurisdictions simultaneously, exposing themselves to conflicting legal standards without the benefit of international legal support. Automated content identification systems used by platforms frequently generate false positives, leading to demonetisation or takedowns. For artists who depend heavily on streaming revenue, even temporary enforcement actions can be financially devastating. Collaborative modes of modern music production present additional challenges. Songwriters and producers often work informally, without detailed ownership

documentation, largely due to the absence of legal guidance. This increases vulnerability during disputes. Beyond individual harm, the broader cultural consequences are significant. Independent artists are often responsible for innovation and genre development, yet expansive copyright protection tends to favour established commercial players, narrowing creative diversity. Alternative survival models, such as crowdfunding or flexible licensing arrangements, place further demands on independent artists by requiring entrepreneurial skills that compete directly with creative time. At a societal level, excessive legal barriers risk limiting meaningful participation in music-making to those with financial privilege. This undermines the democratic and participatory character of music as a cultural practice.

PROPOSED LEGAL REFORMS AND POLICY RECOMMENDATIONS

The growing challenges surrounding music copyright highlight the urgent need for reforms balancing genuine creative work protection with musical foundations preservation. Doctrinal ambiguities and procedural inefficiencies prevent copyright from achieving its constitutional aim.[865] Congress should amend Section 102(b) to specify unprotectable elements: basic scales, simple chord progressions, standard rhythms, genre conventions.[866] This prevents Williams v. Gaye-style "feel" expansions.

A hierarchical framework distinguishes unprotected simple elements from original complex combinations, replacing the all-or-nothing approach. Courts must adopt filtration analysis from software copyright, excluding unprotectable components before similarity comparison. Gray v. Perry provides the model.[867] Expert testimony requires formal musicological training and methodology. Skidmore v. Led Zeppelin's inverse ratio rule elimination stays; digital access assumes opportunity, requiring actual copying proof. Traditional knowledge needs public domain registries ensuring ragas remain communal while protecting original arrangements. Thaikkudam Bridge v. Kantara shows ownership confusion risks.[868] Specialized music courts or arbitration panels with experts resolve disputes efficiently. Registration limits protection to fixed expressions.

[865] 17 U.S.C. § 102(b)

[866] Williams v. Gaye, 895 F.3d 1106, 1120 (9th Cir. 2018).

[867] Gray v. Perry, 15 F.4th 1034, 1043 (9th Cir. 2021).

[868] William Cornish et al., *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* 892 (8th ed. 2013)..

Fair use expands to common elements. Statutory damages caps prevent trolling. Global harmonization via Berne Convention standardizes idea-expression rules. AI requires sui generis protection distinguishing human-guided innovation from algorithmic recombination. Implementation includes musician copyright literacy training, industry attribution standards, and blockchain licensing on clarified rules. Reforms restore copyright's balance: incentivizing creativity while ensuring cultural progress.[869]

CONCLUSION

The discussion across cases, academic writing, and doctrine shows a consistent underlying position: copyright law is meant to protect original musical expression, not the basic elements that make up music itself. Chord progressions, rhythmic patterns, scales, and genres form a shared musical language that all composers necessarily draw from. When courts move beyond protecting concrete expression and begin safeguarding the "feel" or overall sound of a work, they risk diluting the idea–expression dichotomy. This shift creates uncertainty and places an unfair burden on future creators, who may avoid experimentation out of fear of litigation, leading to self-censorship and increased compliance costs.

Recent judicial decisions indicate an effort to correct this drift. Cases such as Skidmore v. Led Zeppelin, Gray v. Perry, and the litigation involving Ed Sheeran reflect a renewed emphasis on tangible musical elements, fixation, and expert analysis. Developments like reliance on deposit copies, rejection of the inverse ratio rule, and careful exclusion of commonplace material show that courts are becoming more method-conscious in copyright analysis. These rulings reinforce the idea that commonly occurring harmonic and rhythmic similarities especially in a digital environment cannot, by themselves, justify claims of infringement. Comparative perspectives strengthen this approach. In both U.S. and European contexts, courts increasingly distinguish between protectable arrangements and the unprotectable musical language that underlies them. The Indian experience highlights the importance of adapting this principle to traditional systems such as ragas, which function as communal frameworks rather than individual creations. Cases like Thaikkudam Bridge v. Kantara[870] and Dagar v. A.R. Rahman reveal how

[869] U.S. Const. art. I, § 8, cl. 8.

[870]Sanjana S, The Case for 'Varaha Roopam': Dissecting the Kantara-Thaikkudam Bridge Copyright Row, NLIU Cell for Studies in Intellectual Property Rights (Feb. 9, 2023), https://csipr.nliu.ac.in/copyright/the-case-for-varaha-roopam-dissecting-the-kantara-thaikkudam-bridge-copyright-row/ (accessed Sept. 20, 2025).

unclear standards on fixation, contribution, and ownership can lead to conflicting claims and injunctions, while also threatening cultural heritage. Technological change further complicates these issues. Digital distribution, sampling, loop-based production, and AI-assisted music creation significantly increase the likelihood of lawful similarity and independent overlap. Projects demonstrating the combinatorial limits of music underline because copyright cannot reasonably extend to elements that are mathematically inevitable or culturally inherited. In such conditions, predictable and transparent legal filters become essential.

Going forward, clearer doctrinal guidance is required. Explicit exclusion of musical building blocks, greater transparency in expert testimony, and serious recognition of independent creation as a defence would help restore balance. Mechanisms such as specialised forums, consistent ownership standards, and protection of traditional material at the level of specific arrangements could reduce uncertainty for artists and rights holders alike. Addressing economic imbalance through limits on excessive damages and improving legal literacy within the music industry would further discourage opportunistic litigation. Overall, the core conclusion of this study is that musical creativity thrives when the law protects genuine originality while keeping the shared language of music free. The post–Blurred Lines jurisprudence shows that course correction is possible, but long-term clarity depends on disciplined analysis, sensitivity to technology and culture, and restraint in defining the scope of protection. Copyright should not restrict familiar sounds, but ensure that new musical expression whether created traditionally or with technological assistance has sufficient legal space to develop.