

Raising Hits

A primer for parenting your song babies

IT IS A TIME-HONORED music industry maxim that “it all starts with a song” or “composition,” and I would add, the songwriters or “authors” who birth them. Much like the individuals that make up communities and societies, songs are borne of diverse backgrounds and genres. Songs often end up living together or next to each other on radio, charts, soundtracks, etc. A successful song may be covered over and over, lending even more diversity by introducing songs to other communities, like white artists covering songs written and recorded by black artists in the '50s or rap artists sampling '80s pop songs. Songs become even more diverse when remixed and mashed up. Songs can migrate and become citizens of other nations. With translated lyrics and reconfigured arrangements, songs enjoy protection under other national laws.

Songs are born with legal rights! These rights include property rights grounded in the US Constitution, no less, and copyright laws that outlive the song's parents. Copyright protection in the US in a composition written after 1977 lasts for the life of the author plus 70 years. US law protects songs with copyright infringement lawsuits. In Europe, regardless of who has the right to economically exploit the work, moral rights (droit moral) apply and protect the integrity of a song by forbidding alteration and use without the author's permission and identification (attribution). An author's composition copyright in the US specifically protects the right to: (1) **Reproduce** the compositions in recordings, (2) **distribute** (copy and sell/disseminate) the recordings or sheet music, (3) **prepare derivative works** when

a pre-existing work is used to create a new composition or when other works are based on the song, and (4) **publicly perform** the song, performances of which are divided into “small” performing rights like when the song is broadcast on terrestrial (AM/FM) radio and “grand rights” when the song is performed in a dramatic fashion like live theater.

Once written, song babies need to be raised well. They can be co-parented when the author assigns part of the copyright to a music publishing company in a co-publishing agreement. They can be placed in the care of babysitters by entering an administration agreement with a publishing company. Song babies can be sent abroad by way of sub-publishing deals. They can leave home forever when the copyright is sold outright to another.

When songs grow up and are working, they create revenue streams from: (1) **mechanical licenses**- when the song is embodied in a physical record (vinyl, CD and cassette), digital download or interactive stream, (2) **public performances**- when the song is performed publicly either live (“small” and “grand” rights) or by audio and/or audio visual broadcast, (3) **synchronizations**- when the composition is coupled with a visual image as in movies, TV, Internet TV, video games and commercials and (4) **print sources**- including sheet music or merchandise like t-shirts, and coffee mugs with printed lyrics. There are also mixed uses like singing toys or musical greeting cards.

For qualifying compositions for which certain notice requirements are met, even if



the author has granted an ownership interest in the song to another, the US copyright law allows for the termination of the US grant. This termination right reverts the US ownership interest to the author. Thus, the exercise of this right empowers the author or the author's heirs to re-negotiate another deal for the song's ownership and/or administration with the original publisher or with another person/entity.

Once copyright protection expires, the old song falls into the “public domain.” Anyone can have free use of the underlying composition in those countries in which the song is in the public domain. However, songs actually never die, especially if they become famous at an earlier age. Note that classical compositions and traditional folk songs are still performed centuries after their birth. Even after the composition retires to a life in the public domain, it remains a critical part of the culture the song helps define; a culture that may be regional, national or global. In the music business, it all begins with a song...baby! 🎵



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