

# Copyright in the Music Industry

A Practical Guide to Exploiting and Enforcing Rights, Second Edition

HAYLEIGH BOSHER

*Reader in Intellectual Property Law at Brunel University of London and Legal Consultant specialising in Intellectual Property in the creative industries, UK*

**Elgar Practical Guides**



**Edward Elgar**  
PUBLISHING

Cheltenham, UK • Northampton, MA, USA

# Content overview

|                                                    |        |
|----------------------------------------------------|--------|
| Foreword to the second edition by Tom Gray         | xviii  |
| Foreword I to the first edition by David Martin    | xxv    |
| Foreword II to the first edition by Andrea Martin  | xxvii  |
| Foreword III to the first edition by Scott Farrant | xxviii |
| Preface                                            | xxx    |
| Acknowledgements                                   | xxxiii |
| Key terms                                          | xxxiv  |
| <i>Copyright in the Music Industry</i> playlist    | xxxvi  |

## PART I MUSIC AND COPYRIGHT

|                                                    |           |
|----------------------------------------------------|-----------|
| <b>Introduction to Part I: music and copyright</b> | <b>2</b>  |
| <b>1 Why copyright matters in music</b>            | <b>4</b>  |
| <b>2 What is copyright?</b>                        | <b>18</b> |
| <b>3 Copyright in a song</b>                       | <b>32</b> |
| <b>4 What copyright gives you</b>                  | <b>46</b> |
| <b>5 What copyright does not give you</b>          | <b>61</b> |

## PART II MANAGING MUSIC COPYRIGHT

|                                                          |           |
|----------------------------------------------------------|-----------|
| <b>Introduction to Part II: managing music copyright</b> | <b>76</b> |
| <b>6 Who owns the copyright?</b>                         | <b>78</b> |

|           |                                |            |
|-----------|--------------------------------|------------|
| <b>7</b>  | <b>Roles and relationships</b> | <b>90</b>  |
| <b>8</b>  | <b>Contracts</b>               | <b>108</b> |
| <b>9</b>  | <b>Licensing</b>               | <b>128</b> |
| <b>10</b> | <b>Social media</b>            | <b>137</b> |

### **PART III INFRINGEMENT**

|           |                                               |            |
|-----------|-----------------------------------------------|------------|
|           | <b>Introduction to Part III: infringement</b> | <b>151</b> |
| <b>11</b> | <b>What is copyright infringement?</b>        | <b>153</b> |
| <b>12</b> | <b>Who copied my song?</b>                    | <b>168</b> |
| <b>13</b> | <b>More music copying cases</b>               | <b>181</b> |
| <b>14</b> | <b>Inspiration or infringement</b>            | <b>194</b> |
| <b>15</b> | <b>Sampling</b>                               | <b>202</b> |
| <b>16</b> | <b>Counterfeit goods</b>                      | <b>211</b> |

### **PART IV ENFORCEMENT**

|           |                                                |            |
|-----------|------------------------------------------------|------------|
|           | <b>Introduction to Part IV: enforcement</b>    | <b>220</b> |
| <b>17</b> | <b>Starting a copyright infringement claim</b> | <b>221</b> |
| <b>18</b> | <b>Where to make a claim</b>                   | <b>229</b> |
| <b>19</b> | <b>Evidence and musicology reports</b>         | <b>240</b> |
| <b>20</b> | <b>Remedies</b>                                | <b>248</b> |
| <b>21</b> | <b>How to take online action</b>               | <b>256</b> |

**PART V CURRENT AND RECENT DEVELOPMENTS**

|                                                                       |            |
|-----------------------------------------------------------------------|------------|
| <b>Introduction to Part V: current and recent developments</b>        | <b>264</b> |
| <b>22 The UK Music Streaming Inquiry</b>                              | <b>266</b> |
| <b>23 EU copyright in the Digital Single Market Directive</b>         | <b>283</b> |
| <b>24 Artificial intelligence and music: authorship and ownership</b> | <b>293</b> |
| <b>25 Artificial intelligence: infringement and exceptions</b>        | <b>305</b> |
| <b>26 Deepfakes and personality rights</b>                            | <b>324</b> |
| <b>27 Blockchain and NFTs in the music industry</b>                   | <b>336</b> |
| <b>Index</b>                                                          | <b>345</b> |