



**INTELLECTUAL PROPERTY AND INNOVATION:
IP AWARENESS AND CREATORS**

COMMUNICATION FROM AUSTRALIA; CANADA; THE EUROPEAN UNION; HONG KONG, CHINA;
JAPAN; THE REPUBLIC OF KOREA; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS
TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA

1 INTRODUCTION

1. Intellectual property (IP) is important for artists and other creators to protect their unique and valuable contributions to society through their work, film, music, or other creations. However, creators often face many of the same challenges as small businesses when it comes to protecting their IP: lack of awareness, resources, legal knowledge, or experience protecting their IP and harnessing its benefits. The lack of legal knowledge about how to enforce IP internationally, and in particular copyright, is also challenging for many creators.

2. This discussion paper highlights some of the IP considerations that may arise for creators, including social media content creators; potential difficulties creators may face in protecting their IP rights; and how WTO Members can raise awareness about IP in the creative fields through various fora.

2 IP CONSIDERATIONS IN CREATIVE WORKS

3. Copyright and neighboring rights are often the most relevant form of IP that a creator of a literary, dramatic, musical, or artistic work will need to consider. For instance, for musicians and songwriters, copyright and neighboring rights can cover the sound recording, performance, as well as musical compositions, which may include music and lyrics.¹ Copyright protection for musical compositions and sound recording can help provide musicians and producers with protection and legal recourse regarding the unauthorized use of their music in social media, online videos, commercials, television shows, and movies.²

4. Copyright protects artistic, scientific, and literary works. This can include paintings, drawings, photographs, sculptures, novels, software, databases, and other creative works. Copyright protection exists from the moment an original work is fixed in a tangible medium, such as painting the picture, writing the novel, or making the sculpture.^{3,4} While registration of the copyright is not mandatory, some countries offer registration as a means to provide evidence that the copyright

¹ What Musicians Should Know about Copyright. U.S. Copyright Office.
<https://www.copyright.gov/engage/musicians/>

² Intellectual Property in the Music Industry. National Inventors Hall of Fame.
<https://www.invent.org/blog/intellectual-property/music-copyright>

³ What is Copyright. World Intellectual Property Organization. <https://www.wipo.int/copyright/en>

⁴ European IP Helpdesk factsheet: Copyright essentials. Publications Office of the European Union. (2022). <https://data.europa.eu/doi/10.2826/864141>

subsists in the work and that the person registered is the owner of the copyright, as well as to provide additional options for the enforcement of these rights.⁵

5. Trademarks can also be important for creators as indicators of the source of their creations. In the music industry, trademarks can be used to protect band names and logos in order to help fans and consumers identify the source of the music.⁶ For a visual artist or author, their name is often also their business name, and most jurisdictions require certain conditions to be met in order to register a name as a trademark.⁷

3 CHALLENGES TO PROTECTING IP FOR CREATIVE WORKS

6. One challenge faced by creators operating in the global marketplace is that IP protection is territorial in nature, meaning that it is enacted and enforced through national laws. For example, countries may differ in what is eligible to be protected by copyright, the length of protection, the scope of protection, and the amount of penalties if a work is copied illegally.⁸ However, many copyright issues in the digital age are international in nature because most content posted online can be viewed, accessed, or listened to outside of a creator's own country. Therefore, understanding how copyright law works across borders is essential when publishing or using content online.⁹

7. The rise of digital media has led to additional challenges because the digital environment allows for people to more easily infringe others' IP. In terms of copyright, it has become easier to copy and share copyrighted works without permission. In terms of trademarks, it is also now easier for individuals and companies to create fake accounts or websites that impersonate established brands that can lead to consumer confusion and damage the reputation of the original brand.¹⁰ Content creators for social media must also be mindful of the rules regarding the unauthorized use of music, videos, and brands featured in their content.

8. Furthermore, the rapid developments with and use of artificial intelligence (AI) raise a number of challenges for creators in terms of their ability to protect their works, including against the background of evolving legal and regulatory regimes.

9. In addition, creators working collaboratively and unaware of the IP implications related to joint authorship and ownership may not take the time to properly document their creation or who owns the work. This can lead to problems in proving ownership later on. Thus, IP awareness for both solo and collaborative artists and creators becomes very important.

4 IP AWARENESS INITIATIVES FOR CREATORS

10. Many resources and programs exist for creators to help them understand the IP considerations informing their works. This can range from informal websites and blogs dedicated towards creators, formal programs and resources by national IP offices and the World Intellectual Property Organization (WIPO), and advice provided by law firms and IP associations focused on the creative industries.

11. One such resource is WIPO for Creators, an open public-private partnership launched by WIPO and the Music Rights Awareness Foundation that seeks to raise awareness about creators' rights and related management practices. Their primary goal is for "creators to be fairly acknowledged and compensated for their work, regardless of their geographical, cultural, or economic conditions."¹¹

⁵ What is Copyright. World Intellectual Property Organization. <https://www.wipo.int/copyright/en>

⁶ Intellectual Property in the Music Industry. National Inventors Hall of Fame. <https://www.invent.org/blog/intellectual-property/music-copyright>

⁷ See, for example, Musicians and Artists Profile. United States Patent and Trademark Office. <https://www.uspto.gov/learning-and-resources/ip-policy/musicians-and-artists-profile>

⁸ What is Copyright. World Intellectual Property Organization. <https://www.wipo.int/copyright/en>

⁹ Copyright Resources to Support Publishing and Teaching. University of Pennsylvania. <https://guides.library.upenn.edu/copyright/international>

¹⁰ Intellectual Property Challenges in the Digital Age. Global Intellectual Property Convention. <https://www.globalipconvention.com/blog/intellectual-property-challenges-in-the-digital-age>

¹¹ WIPO for Creators Charter. (2009). World Intellectual Property Organization. <https://www.wipo.int/documents/d/wipo-for-creators/docs-en-charter-creators.pdf>

This partnership brings together various stakeholders to cooperate on projects and educational programs.

12. Further, some national IP offices provide information or programming featuring IP considerations for creators. In addition, IP information and awareness targeting small businesses may be a source of helpful information for creators whose aim is to commercialize their work.

5 GUIDING QUESTIONS

- a. How do WTO Members provide IP awareness resources for artists, musicians, authors, or other creators?
 - b. What are Members' most active creative industries in terms of job creation and income, and how have they contributed to the economy?
 - c. Where do Members see a need for more IP awareness and resources for creators?
 - d. How can Members help raise awareness of IP for the creative industries?
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