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Music Rights: towards a material geography of musical practices in the 'digital age'

In *The Production and Consumption of Music in the Digital Age*, eds. B. Hracs, M. Seman and T. Virani. London: Routledge.

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Abstract

This chapter fundamentally challenges the received wisdom of the 'digital age' and music, which is technologically reductive and generalized. Instead I argue for the need to attend to the situated nature of the practices that constitute music. In so doing I bring back the material to 'digital discourse', and reconnect with space and society. In so doing I break the binary divide of the digital and material and remake it as a hybrid. The structure of the chapter is as follows: I first introduce the idea of copyright and ownership in music: what it is, what can be owned, and how local institutions shape it. In the second and third parts I elaborate the issues and some practical consequences through exploration of first ownership, and second, trade. I explore these through the lens of the two types of "rights" in music: moral and mechanical. I further show how these are interwoven, and embedded in space.

Keywords: digitization, cultural labour ,copyright, material practice, intellectual property rights, immaterial labour, affect, moral rights, mechanical rights, scale, situated practices, digital age, legality, place, space

1. Introduction

This chapter is concerned with copyright and music. Its stress on the material geographies and practice challenges the norms of debate that have been dominated by concern with the immaterial and the virtual. The chapter argues that such conceptual and practical focus on de-materialization has obscured, or distracted, analyses to such an extent that it has rendered invisible the geographical. Not surprisingly debates have been dazzled by technological changes, to the extent that they have – erroneously – displaced other concerns. The premature announcement of the "death of distance" being a case

in point. The chapter argues for the need to turn our attention on the social and spatial embedding of musical practice if we are to fully comprehend its emergent forms in the “digital age.” This chapter is positioned against the notion of a ‘digital age : a term that is associated with teleological theories of development. Moreover, it is a term that has deep roots in the writings of conservative futurists (Bell 1973, Toffler 1980), and much of the contemporary ‘technology commentariat’ spun out from Wired magazine (Kelly 1998). A telling critical exposition of such writing can be found in the exploration of the ‘Californian Ideology’.(Barbrook and Cameron 1995).

Copyright and music are often used in the same sentence, and the issue of piracy and downloading has become the stuff of moral panics. By focusing on consumption and distribution, and the (disembodied) digital, we have become disconnected from the materiality of musical production. Debates about the consumption of music, where focus is on an exclusive concern with the online purchase and distribution of music, are a legitimate concern, but not when they lead to the exclusion of the production of music. We have accepted the organizational erasure of intermediaries, and the idealization of a peer-to-peer world, as if it were a naïve neo-classical economic textbook. A further “invisibility” in neo-classical economics and debates about the digital age concerns spaces, institutions, and people.

A related neglect concerns work on the labour and organization of music making, and the dynamics of performance and audiences. The framing of the debate in contemporary normative literature thus immediately pre-presents this second position which is concerned with the material and affective as analogue, Luddite, or backward looking¹. To be sure, I want to support a different perspective that acknowledges labour in the digital age; but I will argue that this can only be successfully achieved by re-conceptualizing the two positions as joined and interwoven. This chapter seeks to connect the two dimensions (the social and material , and the digital and immaterial) in a novel manner: a way that it is not simply additive, but is transformative of both sides. The key element is how we conceptualize copyright (Kretschmer and Pratt 2009). Normative

¹ Indications of other silencing has been evidenced in the re-examination of the role of ‘craft and graft’ in cultural work Sennett, R. (2008). *The craftsman*. New Haven, Yale University Press. And the vast literature on the ‘maker movement’ Dougherty, D. (2012). "The maker movement." *innovations* 7(3): 11-14.

views, if they acknowledge it at all, view copyright as an autonomous, “bolt on,” characteristic of music; I will argue that it is better seen as a relational feature, one that re-constitutes both music and place.

Polarized debates about copyright tend to flounder on atomistic idealizations of the legal relations of music. First, via a concern with the mechanisms and business models presumed by a particular legal construct. Second, in terms of the blame attributed to individuals associated with moral failure² (usually characterized by the youth, and those residing in the Global South). Both positions presume that copyright is universal and indisputable: a position that this chapter contests. It is this underlying assumption that the chapter contests. In short I argue that copyright is relational, taking its meaning from its context (social, economic and spatial): that is, opposed to an absolute position that excludes context. Conceptualized thus we re-open the possibility of geographies of copyright and musical practice which have recently been severed. Music practices that we may observe take place in, and are constituted by, a legal framework³, such that we assume them to be natural. These points is analogous to driving a car on a road, it not “natural,” or always correct, to drive on either the right or the left, but is a norm constituted by particular legal codes. Under such codes, and practices, certain rights (let alone security) are created for those who operate in compliance with them.

I argue that laws constitute the practices, not simply regulate them. The law is not an idle bystander, but an active participant it shapes, and is shaped by, history and social norms. In this chapter I seek to admit a place for the (otherwise excluded) spatial and temporal changes in music making, their practices and technologies, as well as the international flows. In their different ways, which allows us to explore how they generate the geographies of music as conceptualized in this chapter. They are not separate from the digital they are intimately bound up with it. A critical element is the territorial variation of legal jurisdictions; in particular the degree to

² Copyright transgressions are subject to moral sanction: they are ‘bad’ :‘copyright is theft’. When combined with developmentalist discourse that constitute a story of ‘moral failure’ of whole peoples; constructed as a disrespect for an atomized and commoditized notion of ownership.

³ Legal frameworks, and social institutions, are of course embedded in places and practices.

which laws on the statute books in any place are implemented⁴. This analytic space I argue, opens up a rich empirical field of copyright in and across different places, and the organizational and political mechanisms, and spatial configurations of music. It is this that I argue is a better framework for analysis, one that sees an intimate and recursive relationship between people, place and social and economic institutions. In short, an approach that brings the digital age back to earth: specific times, places and practices.

The structure of the chapter is as follows: I first introduce the idea of copyright and ownership in music: what it is, what can be owned, and how local institutions shape it. In the second and third parts I elaborate the issues and some practical consequences through exploration of first ownership, and second, trade. I explore these through the lens of the two types of “rights” in music: moral and mechanical. I further show how these are interwoven, and embedded in space.

2. Basics: What do we own?

De-materialization

We often take the idea of ownership for granted, it is banal; it is only contested if we have an obvious transgression: a theft. Such a demonstration of proof is tricky enough with a material object, let alone an immaterial one. In such a case how do you prove that the object “stolen” is yours? What is it that you actually “own”? That has been in your possession; you have the receipt maybe? We tend to think of the ownership of music in this way eliding the intellectual and material dimensions of the “thing.” Recent debates about piracy echo such a simple good-bad distinction, one where there is a natural right or wrong. The aim of this section is to unsettle this binary of right and wrong, or at least its apparently normative values. The aim is to highlight a new dimension to the legal geographies of music that are produced through the operation of copyright regimes, and their concomitant concepts of property rights. A necessary first step is to acknowledge the multiple claims of legal rights concerning music.

⁴ This echoes a point that Sassen. Sassen, S. (2013). Losing control?: sovereignty in the age of globalization, Columbia University Press. makes with respect to sovereignty and globalization: it is always local and requires local legal decisions

In the last decade we have witnessed one round of debates about the “death of geography” and digitisation. Considered analysis has shown this to be a fallacious and sloppy argument concerned with abstract and idealized possibilities, divorced from material practices in the world (Cairncross 1998). Beyond a knee-jerk corrective we can sketch a new line of debate that offers a more hybrid position, as opposed to a polarized viewpoint. The particular focus of many commentators, in part that which other authors in this book are responding to, is the dematerialization of production and consumption: co-authors are seeking to re-ground these concerns literately and figuratively (See chapters x, x and x). My contribution is complementary, but slightly different: it is focused on the notion of the “rights” of music, who can use them and in which forms. More generally I want to show that the “legal” is not just a context, but also an active shaper of music production and its modes of consumption; and, the means of production of its distinct geographies. It is these situated socio-economic-legal conditions that define and fix the local forms of ‘digital’ practice (and its emergent forms)

Intellectual and Material rights

Many people have rightly highlighted the challenge of digitization to many practices, especially those of music. When they do so, it is often shorthand for new business models, such as the “long tail”, and new means of communication instantiated in the immaterial software download versus the physical distribution of the material product of record or a CD (Wikström 2009). What is less discussed is the fact that we are not dealing with material things, but with electrical impulses and that the “rights” associated are intellectual as well as, or instead of material ones. Moreover, we are codifying who and what can be owned, or who is deemed responsible for a creative act. For example, is sampling a drum beat a creative act, different from that of the original drummer? Who should have the rights to the sample? And how should the income be divided? Much of our common sense and everyday practice is constructed around “things”; we have common codes for referring to them (length of our possession; or, we have a receipt), locating them and transacting them. Even then, we know that they can be the source of legal dispute (for example, did the seller own the object that we purchased). The problem is that when we discuss the digital we commonly use the same analogies. But, the analogy should be reversed. What we miss is the fact that the material object – by its brute physicality – stands in for the “legal” thing. Traditionally we have referred to the vinyl disc or CD, as the

‘carrier’ of the rights; however, in legal terms the MP3 is also a carrier. The rights question does not change, although apparently the carrier has ‘dematerialised’. Here we are in danger of a philosophical debate about “thing-ness”. But it can be appreciated that if you take the physical object out of the equation all that you have are the rules of “ownership,” in this chapter what we refer to as intellectual property (again, the very language refers us back to a physical analogue).

Why does all of this matter? Let’s take the example of a CD (for those old enough to remember them; or substitute any carrier of the IP, or any service to distribute it). I use the CD as example as it’s the last direct physical transaction of music that we have. In this sense we use the material concepts and translate them to the realm of the digital and something goes awry. In the case of a CD it is bought in a shop, then legally you own it; don’t you? You may be surprised what you actually own: some plastic and paper. The information encoded on the CD is protected, and you have purchased a right to use it, you do not own it. Likewise with an MP3 download, or a streamed file: even though it’s digital you don’t own the IP. The right to use it (the IP) is delimited by strict conditions such as not playing it to other people (in whatever media), and not copying it (that would even include singing it), only to play it on specific machinery, and in some cases only in particular legal territories. For this right you have paid a fee, or a rent. It is a ‘right’ that the originator can withdraw at any time. It is immediately apparent that the slippage between legal nicety and common practice creates a norm of technical “law breaking.”

This might be troubling, or confusing, but does it really matter? I want to show that it matters for the geography of music, and how we conceive it. However, thus far I have only considered the rights to use or trade the music: who owns it, and who created it? For example, it is perfectly possible and indeed likely, that the rights to play, or reproduce, a piece of music are owned by person A in country 1, and person B in country 2. There’s an apparent paradox! Can two people own the same thing: yes, but separated by territory. As I will explain this will take us in other apparently mind-boggling directions. However, it lies at the core of what it means to be a living and working musician, how you make a living from your composition. My core point will be to show that the ownership question is not obvious; in fact it is a socially situated and negotiated thing. Related, these negotiations are embedded in particular territorial legal systems, which are different. So, there is an obvious geography of copyright. Moreover, the trade or exchange between one system or

territory and another can lead to distinct inequalities. Simply, if you take your music into another legal jurisdiction you may have no rights to use it.

By using the example of what we might “own” of a CD I hope that I have begun to problematize ownership and the material. We naturally tend to assume that ownership is a totalizing and universal fact: both in terms of the “ownership” and the “thing.” As the CD (or any other carrier) example shows we are in fact offered rights of use only, these rights actually shape the “thing” the music on the CD, what it is and what we can do with it (for example, different versions of the same album, or different albums, released in various countries). The common misunderstanding of ownership leads us down the false path of thinking that we can choose what we do with any object that we own; moreover, if we separate the thing from the material that we have somehow liberated it. As some digital libertarians have it: “data wants to be free.” They are, in other words, constructing data/music as independent and somehow outside of control. This is not what the legal framework suggests. Common discourse about music rights tends to be reduced to technologies and materialities. This chapter is arguing for a more subtle relationship, hence the unease with such terms as ‘the digital age’ and ‘digitisation’ when not used in a specific and situated manner

The mechanical rights, or what we may normally view as the trade and consumption side, are important; but they miss a critical production and moral dimension. In the remainder of the chapter I will show that the concern with digitization has only assumed to impact on this aspect highlighting dis-intermediation, and the ideal state of autonomous producer. I will explore these two sides of the same music “coin” in the following sections: consumption and production. In both cases I will highlight the fact that scale and geography are constituent parts of music. I will do this by adopting the legal codification of moral and mechanical rights. Furthermore, I will show that there are distinct temporal, scalar, and spatial dimensions to both.

3. Moral rights

Moral rights are what we normally associate with the “author.” In copyright law that is the person “identified as the author”, and the integrity of whose work is protected. That is, you can’t copy it and

claim it for yourself, you can't tamper with it, change the second verse and call it your own. An author can claim a "royalty," a rent essentially, on others using the work identified with the author (under specific terms). These notions are widespread, but not universal, and they are interpreted differently under particular legal jurisdictions. When you buy a CD, a small percentage, commonly 5% of the sale price is royalty. That may seem small, and it is for regular sales; but in a temporal monopoly (that organizational form of the charts creates), it can net huge gross sums.

Micro-scale

What is it that the artist has created, and can thus sell? And, how can its ownership be designated? In the legal world the term used is "the work." The work is the music (and words) uniquely authored by the artist. If the work is reproduced and distributed a second property, or division of the property, is created. That is the work, and its physical "carrier" (the recording), or the sheet music (the mechanical rights discussed above). Initially it was the work codified as notes on a stave, and sold as sheet music: the author's original, and the copied item. On sale of the sheet music the artist got an income based on the royalty – the rent for the use of the work based upon sales. Note that this is different to the regular calculation of the margin between production costs and selling costs of a regular product (which, to complicate matters, sheet music is simultaneously). There were not constraints on the reproduction of the music (today that would be prosecuted as copying: even singing "Happy Birthday"). Historically, just the physical sheet music; in fact the possibility of reproduction on a piano was its *raison d'être* and the business model. Times change, today those rights are retained, and protected. Again, this emphasizes the situated nature of rights and how they affect the conditions under which we perform and listen to music (which will be, necessarily, place and time specific).

The slippage between common practice, or production systems, and the law generate problems. Essentially, the same system adopted from classical music carried on into popular music. And critically, the same case law and precedent. However sales of records, and the income, quickly exceeded that of sheet music. Copying performance became an issue that rights holders wanted to protect. However, a more significant shift in musical practice complicated matters. From the mid-1960s, the popular music performance artist increasingly wrote their own compositions, however many popular music artists

didn't read or write music. This created two challenges. First, collective informal authorship; second the "work" was not transcribed.

An artist's performance in the studio is either paid as a one-off fee, and/or a small proportion of the mechanical rights (or reproduction), not the moral rights (authorship; which normally carry a greater percentage revenue of royalties). Band members thus have to prove or assert authorship rights from an assumed sole authorship to instead reflect what was in practice an improvised collective construction. Many compositions emerged from a collective improvisation of the band. A step further and we entered the era of music composition in the studio where there might be many more potential "authors". Nominal authorship was often attributed to the singer, as a convenience. Moreover, if inspiration had been lifted (plagiarized) from another song, especially "folk" music it was re-attributed to the current performer. A well-documented case concerns Led Zeppelin who many "miss-credited" themselves for music that they did not write. After court cases the writing credits were "adjusted" on later re-issues of the albums, and revenues redirected to Delta Blues songwriters such as Willie Dixon. This was not an exceptional case (Vaidhyathan 2003).

Bently (Bently 2009) offers another dimension to the analysis by showing how classically trained ethnomusicologists are often called as expert witnesses in court, they not only view authorship in a normative fashion, but also reproduce the "legitimacy" of non-orchestral instruments: for example, that saxophone is "ephemeral," and drums "not an element of a musical work." Thus, Bently points to an interpretation of legal cases as showing up how not only that copyright does not work (for the artists), but also that it does not recognize the labor of making music remaking.

The changing technologies of recording and the practices that developed around them further complicated the picture. Gander (Gander 2010) shows in his analysis of studio producers and engineers, a similar battle has taken place in recognition of "authorship" of the production, recording and "the mix." Not a right generally recognized in the law. On the contrary, in the classical conception the "technical" work of the studio is further from the "creative essence" and does not count. In the digital age the nature and history of "the mix" is even more critical. Technically it is possible to save every take, and every mix, in the recording process. Producers

are wary of providing record companies with this – history. Producers are normally paid a flat fee for their services (instead of a royalty, which would imply that they were an artist). The digital history potentially allows a “remix” of producers’ work; in principle a challenge to the moral rights of the producer (if they were recognized). In an extra legal action the common response is that “possession” is 9/10th of the law. Thus, it has become usual for these “stems”⁵ to be retained by the producer; only passing on the processed (and irreversible) final mix. This serves to further illustrate the extended and collective nature of “authorship” of a “work” of art; and the tensions between the material and legal realms and how they are continually multiplied.

Macro-scale

There is a basic rational economic requirement for markets to function: that payment flows from the purchaser to producer. The system of royalties is a rent on the use of music. In practice the challenge is how to collect the rent, and get paid. Generally, it is rolled up with the selling price, and then returned to a “collecting society” who redistributes the income to the rights holders based upon an audit of sales. The institutional requirements of an the efficient and effective logging, claiming and distributing of royalties has been a challenge in the Global North, the costs of institution building in the Global South are often prohibitive. These institutions - collecting societies - are run and owned by artists. They are costly and complex to organize. The incentive is the “carrot” a stream of income; but this also requires an effective “stick,” the development of a specialized legal infrastructure to prosecute piracy. The failure of these institutions to operate, and the articulation of an operational legal framework, is a major practical barrier. Empirically speaking, in much of the world songwriters do not receive royalties. The specification of the details of the above paragraph would fill a book alone, and it would be obsolete tomorrow. Hence, my strategy here of avoiding collapsing debates into technologies; focusing instead of the way that rights are mediated through locally and temporally specific institutions and technological forms. This is a conceptualisation that can then be applied empirically to cases.

⁵ Software code files produced by Pro Tools, which is the market-leading software used for mixing music.

The consequence in the Global South is that the copyright system is broken and few people respect “rights.” Indeed one might argue that it is not “rational” to do so under such conditions. Instead an alternative, parallel, market develops based upon live performance, where income for artists can be secured from the audience direct as moral and mechanical rights may be practically irrelevant to this business model. An organizational consequence is that musicians must over-exploit themselves and use up their creative stock of music without fully exploiting it. The organizational success of the western pop model is based upon monopoly profits from a “hit,” and the restriction of releases of material so that the last penny is extracted from audiences before a subsequent release. One of the benefits of the monopoly model is that – for the few – incomes are higher, and that due to the protection of rights, a continuing income can be had from music (usually via ‘replay’ rights)(Bagdikian 2004). However, as can be appreciated it is a profoundly geographical question as to whose interest this system works for.

The well-publicized “world music” stars seem to be a contrary example, succeeding by breaking out of the Global South system and into the Global Northern one. In reality they are using a parallel system (see next section). Once they gain recognition in the North, they secure legal rights (limited to Northern territories), and form companies to channel profits into banks based in the North. It is far from straightforward to create a flow of money to the Global South. Moreover, it is often the case that music by Southern artists recorded and released in the North, is legally not available for distribution in the South. If Southern artists want their music to circulate in their home countries they will have to engineer a local legal agreement, and battle to secure protection of their rights (Pratt 2007). As noted above, in many cases legal protection is regarded as irrelevant by an artist.

A further point about the relational legality of copyright touches on a more fundamental point. The Northern copyright system assumes a singular ownership of authorship. In some countries this is an alien concept; community or collective rights are recognized, but the concept of an individual right is not valid. There is clearly a fundamental problem of resolving an individualistic ontology of copyright, with a collective one. Thus it is not a “dis-respect” or a “moral failure” to recognize rights but to see them in a different economic, social and political formation; and consequently what can be controlled by them: music and stories often belong to a

community⁶. Moreover, as also noted above, it is not “rational” to support a copyright system that locally does not deliver benefits, or respect or local values. This continues to be a fundamental contradiction with the principles of universalist property regimes.

4. Mechanical rights

The reproduction rights of music are a product of mass popular music consumption and the social transformation of youth. Million seller records, with favorites that change by the week, became big business; it is a very successful business model. From a naive point of view the model of selling records, as the *product*, seems like any other field of manufacture; however, as noted above this obscures the making of music itself. Although, as noted above, the rights are not simple, they echo the “rental” model. The fee we pay as individuals to play the music, or broadcasters to do so, or to trade in the replay rights. Who “controls” the rights of a piece of music in this case are recognizable. The point to note here is that by using digital only transactions a number of “middle men” are potentially cut out (dis-intermediation) of the equation; seeming to put the author in control. As we have noted above, this is seldom achieved in reality.

Micro-scale

As the music companies own the reproduction rights they can “re-exploit” their music libraries to their heart’s content (as long as the contract was written favorably). Consumers can be encouraged to buy the same product several times packaged in new formats: a vinyl record, a CD, and an MP3 of the same music. The costs to the record company (“pressing” the CD, legal and management costs, artist development, recording, promotion, etc.) come to as much as 40% of the sales cost; however, the actual costs are less than half of this, the remainder is the cost of “risk”⁷. The 50% retail and distribution, and physical costs could all go back to the artist, but generally the music company, or other agents, manage to retain a large proportion.

This is the sphere of possibility that so much of the “digitization” literature focuses on, often projecting the idealized case where the

⁶ See for example the West African Griot or storyteller tradition. Eyre, B. (2000). *In Griot Time*. London, Serpents Tail.

⁷ In music the ratio of “misses” to “hits” is high, and in any business model this has to be accounted for in total costs.

artist sells direct to the consumer. This is seldom the case; despite the fact that so many routes to market are possible. The dominance of platforms such as iTunes, and Spotify⁸, highlight the emergence of digital intermediaries who, as ever, pass a small proportion of the retail fee to the artist. Added to which is the completely skewed market in cultural goods, of which music is a prime example, built upon a “winner takes all” model which fits neatly with oligopoly (!!! INVALID CITATION !!!). The music industry is dominated by just three companies; it is primarily these companies that make a deal with the digital platforms.

Markets are configured and promoted by charts and commentary, the digital platforms (which configure availability, and more importantly visibility) and accompanying social media operations to promote and rapidly turn over stars, driving the market to concentration and monopoly profits. In the physical distribution years, this concentration was vital to the functioning of the business and efficient stock control and waste minimization. Today, although the physical necessity does not exist, there continues to be institutional rigidity, both the “industry” and the “audiences” are acculturated to monopoly artists. The new digital platforms are in a win-win situation, the occasional “slow burn,” or “long tail” success of the back catalogue; and the monopoly profits from national, short term, stars. The obverse is that selling a few copies of anything will not make a sustainable livelihood for a musician.

Macro-scale

The industrialization of music – its mass reproduction, consumption and insertion into trans-local systems of exchange – created a new realm, as well as new barriers. As I have noted music needs a “carrier” the vinyl disc, compact disc or digital file. Music traded in a physical form was *effectively* regulated after the fashion of most physical goods: the cost and time of reproduction, and (technically inferior) copies, were a barrier on transgressions. Copyright issues were seen as more or less co-existent with the material object. Thus, the structuring and regulatory factors were practiced through trade: the movement of goods. Tariff barriers and national borders had to be negotiated, and taxes paid.

⁸ Despite commercial differences these services and those similar perform a similar function of distribution and licensing of the content.

With digitization it has been often assumed that the link between the physical object and the musical work was severed and that none of these material encumbrances would apply any longer. Therefore different business models would be devised to capture the added value; again a common proposition has been dis-intermediation: the artist deals direct with the consumer: practice is somewhat messier.

The first aspect that we need to appreciate is the role of institutional inheritance, or path dependency. The path to market of music has traditionally passed through a highly organized and centralized music industry. It was organized on the logic of moving goods, goods for which demand fluctuated wildly, and had considerably diminished value after a time period. As I have noted, new digital platforms (and companies) have substituted but not replaced the distributional and marketing forms established in an analogue age. It would be more accurate to say a re-intermediation has taken place around digital platforms.

Even in the analogue age the national and regional differences of music making and consumption were often overlooked. Negus's (Negus 1999) work offers a strong counter to this normative view. He shows that music markets are organized around a number of national territories; each structured around particular genres, release dates, and marketing campaigns. National markets were, and are, differentiated: we do not all like the same music, nor produce the same music. Music successful in one territory was seldom successful in another. Moreover, despite the emergence of popular music (dominated by a European-North American form), a number of other genres have not only persisted but prospered. Music companies structured their activities, and organized their markets (which included via vertical and horizontal integration, media and performance, as well as retail). The internationalization of the music business had significant post-Fordist characteristics whereby niche markets were developed, and example is the proliferation of "charts" associated with genre and location (Negus 1999). The structural objective is volume and turnover.

This path dependency matters because even though physical distribution of music has declined, music companies (and their replacements, the digital platforms) still bear a structural legacy of the genres and territories. The music industry is *still* struggling with the idea of the first "global" release of music (all countries at the same time). Despite the theoretic potential, the reality still remains

one of national systems. The (once physical) path, and market structure, dependency is also one at the same time a legal one too. International music distributors will not operate in some countries (most of the world), not due to lack of demand, but because they cannot control distribution and copyright. These countries are literally “off the international map” of music; they are relegated to a secondary system that is insulated from the “international” system (see previous section).

The result is far from a digital global free market dream; rather it is an empirical story of a combined and uneven music industry development of (mainly) nations of the Global South (and their significant musical heritage). One of the reasons that these countries are “locked out” is their “non-compliance” with international copyright conventions. In practice, most countries have signed up to international conventions; however, the problem is that they have insufficient resources to police them, or more critically to make sure that the copyright industries function.

5. Conclusions

I have argued that we need to pay closer attention to the issue of copyright with respect to music. Popular accounts of the digital age and music have rested on a symbolic erasure of production, and with it the geographies of production. Conceptually speaking, the normative position suffers from technological reductivism, immaterialism, teleology and universalism. The answer is not to simply offer a polar opposite point of view. Rather I have argued for the need to examine the relationship between the social (legal, economic and political) and the technical (digital). The example that has been explored in this chapter concerns one such mediation the field of copyright (again one that is seldom viewed as a mediation, but as a law).

I have argued that we cannot read off musical practices from a technological map; nor draw a direct line between moral and mechanical rights; and, between the material and immaterial. We need to resist treating copyright as a “natural” thing; or as stable or having unitary meaning, something that can be added in as a new “factor.” I have sought to side-step the well-travelled road of the death of copyright, music, and geography. These are all important debates, but I argued that they miss-construe both the causes and the processes of change. Instead, I have shown that the subtle

relationship of making and remaking music under particular local (legal, technical and artistic) conditions and offers a more nuanced account.

The realm of copyright is not universal or unitary as it is often presented; in fact it is local and fragmented. Despite a similar legal coding of the law in many jurisdictions, the interpretation and practice of its application is various; attenuated by the organizational capabilities of collecting societies, audience and musicians, as well as the state. These factors have a direct relationship to the income and legal capacity of regional and nation states. Particular forms are forged within these historically and spatially situated conditions.

Accordingly, by default, we have paid too much attention to the consumption of music, passing over it the conditions of its production. The debates about immateriality and mechanical rights had led to a neglect of what is in essence a moral and cultural value debate. I have stressed that this is not a polarized, either-or distinction; rather it is a complex hybrid.

With these complex matrices laid bare we can observe a rich diversity of music practice: the variety of different ways that it is possible to create and disseminate music. These practices are the raw material of the geographies of music, its forms and performances. In this sense music as a creative practice is a product of a locale, but not exclusively: not simply in its expression, but in terms of its organizational practices; practices which in turn shape and are shaped with a range of institutions that can be enabling or resistant to travelling beyond the local.

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