

## **Music Industry's digitalization: how to assure artists' Intellectual Property Rights efficient and sustainable protection?<sup>1, 2</sup>**

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### **ABSTRACT**

As a critical mainstay of any industry, intellectual property rights protection is one of the most challenging issues of entertainment industries as they see their environment strongly reshaped by the proliferation of digital technologies. For the recording industry, the spread of digital music and platforms came with the exponential growth of music piracy - critically jeopardizing artists' work protection and their ownership towards their projects.

This paper examines the various ways to assure the efficient and sustainable protection of intellectual property rights in the music industry through contracts in order to find the best alternative to protect effectively artist's achievements.

Our analysis will rely on several methodological tools such as root cause analysis and qualitative and quantitative methods in order to identify and understand better the causes, implications and potential alternatives to such an issue.

This research indicates that the need for new and adapted business models within the music industry is required in order to assure a sustainable and efficient protection of artists ownership throughout their projects.

**Keywords** - Copyrights management, created works protection, record industry, music, future, new business models

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## INTRODUCTION

Intellectual property protection is the backbone of business models in managing creatives across many industries especially the music one. "Generating more than \$17.3 billion in 2017"<sup>3</sup>, the record industry "has become one of the largest and most profitable cultural industries worldwide"<sup>4</sup>, being a consistent part of the global economy and a relevant source of revenues, employment and growth. One of the main challenges faced by the entertainment industry is the efficient and sustainable preservation of artists' work and achievement through the protection of their intellectual property rights. Major concerns were raised around this topic and record labels' ability to manage these new copyrights issues due to:

**A - Technology**<sup>5</sup>: the rise and birth of the internet impacted largely the entertainment industry, giving the ability to a better and broader access to any piece of information, work or achievement ever made. Music suddenly became more reachable, replicable and available for free access through any internet devices and sampling or file-sharing methods<sup>6</sup> – as "about 24% of the internet bandwidth that is used around the world at any given moment is being used to illegally download music and other copyrighted materials"<sup>7</sup> - threatening critically copyrights management into musical contracts as well as the emergence of new artists<sup>8</sup>.

**B - Consumer habits**<sup>9</sup>: the internet era has changed the way music is consumed. Indeed, the birth of the internet led first to the emergence of illegal networks named peer-to-peer (P2P) - which is a continuous exchange platform of music files and data from consumer-to-consumer regardless of copyrights regulations. Secondly, legal applications and digital platforms flourishing over the last decade allowed subscribers to stream and download music and thus mostly for free.

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<sup>3</sup> Challenges, (2018, April 24), *L'industrie du disque annonce des chiffres records en 2017*. Retrieved from Challenges' article: [https://www.challenges.fr/high-tech/l-industrie-du-disque-annonce-des-chiffres-records-en-2017\\_582873](https://www.challenges.fr/high-tech/l-industrie-du-disque-annonce-des-chiffres-records-en-2017_582873)

<sup>4</sup> Dong-Her, S., Ming-Hung, S., David, Y., & Che-Lun, C. (2014). *A Robust Copyright and Ownership Protection Mechanism for Music*. Retrieved from *Springer Science*.

<sup>5</sup> Jewell, C., *Creating Value from Music - The Rights that Make it possible*. Retrieved from: [https://www.wipo.int/ip-outreach/en/ipday/2015/creating\\_value\\_from\\_music.html](https://www.wipo.int/ip-outreach/en/ipday/2015/creating_value_from_music.html)

<sup>6</sup> Muller, J., *Copyrights issues involving music*. Retrieved from: <https://info.legalzoom.com/copyright-issues-involving-music-23410.html>

<sup>7</sup> Gaille, B., (May 2017), *23 Shocking Music Piracy Statistics*. Retrieved from: <https://brandongaille.com/21-shocking-music-piracy-statistics/>

<sup>8</sup> Granados, N., (February 2016), *How Online Piracy Hurts Emerging Artists*. Retrieved from: <https://www.forbes.com/sites/nelsongranados/2016/02/01/how-online-piracy-hurts-emerging-artists/#35c7be427774>

<sup>9</sup> Cuadrado, M., Miquel, M.J., D. Montoro, J., (2009), *Consumer Attitudes Towards Music Piracy: A Spanish Case Study*. Retrieved from: [https://www.jstor.org/stable/41064994?seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/41064994?seq=1#page_scan_tab_contents)

These changes brought substantial issues about intellectual property rights protection as music files or data can now belong digitally to anyone with a computer, smartphone or any other device. Statistics studies show that “28% of viewers between 15 and 25 years old use illegal file-sharing services on a weekly basis in the United States in 2017”<sup>10</sup>.

**C - Market dynamics:** as digital intermediaries, online communities and representations became the mainstay of the record industry, with a “60,4% growth in streaming revenue”<sup>11</sup> in 2017, the business environment surrounding music has been reshaped with the exponential rise of digital music and the significant decline of physical music sales revenues. Record labels changed the way they released and distributed music in order to meet the new customers expectancies - impacting artists' work protection as well as copyrights management into their contracts.

**D - Regulatory issues:** as the rise of the internet came with technological discontinuities, controversial cases around the releasing of new music have been exposed over the last decade showing the ongoing threat of intellectual property rights protection for artists, as the battle between Pharrell Williams and Robin Thicke's “*Blurred Lines*” v. “*Got to Give it up*”<sup>12</sup> song by Marvin Gaye illustrated it. As the law faces an intangible threat through the progressive loss of the record industry to music piracy, regulations concerning copyrights infringements face a significant challenge. For instance, in 2009 “an average of 95% of music found online could be downloaded illegally”<sup>13</sup>.

These possible causes to the music industry's failure to properly protect artists' intellectual property rights are represented in the following fishbone diagram:

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<sup>10</sup>Statista, (2018), *Share of viewers who use illegal file sharing services to stream or download video content in the US, by age*. Retrieved from: <https://www.statista.com/statistics/758802/illegal-file-sharing-services-stream-download-video-content-age/>

<sup>11</sup> IFPI, (2017), *Global Music Report 2017, Annual State of the Industry*. Retrieved from: <https://www.ifpi.org/downloads/GMR2017.pdf>

<sup>12</sup> Jacobson, E.M., (December 2016), *Music Industry Cases to Watch In 2017*. Retrieved from Forbes' article: <https://www.forbes.com/sites/legalentertainment/2016/12/29/music-industry-cases-to-watch-in-2017/-1e563cab6a56>

<sup>13</sup> ONSIST, (February 2017), *These are the numbers of Music Piracy in 2017*. Retrieved from: <https://www.onsist.com/numbers-music-piracy-2017/>

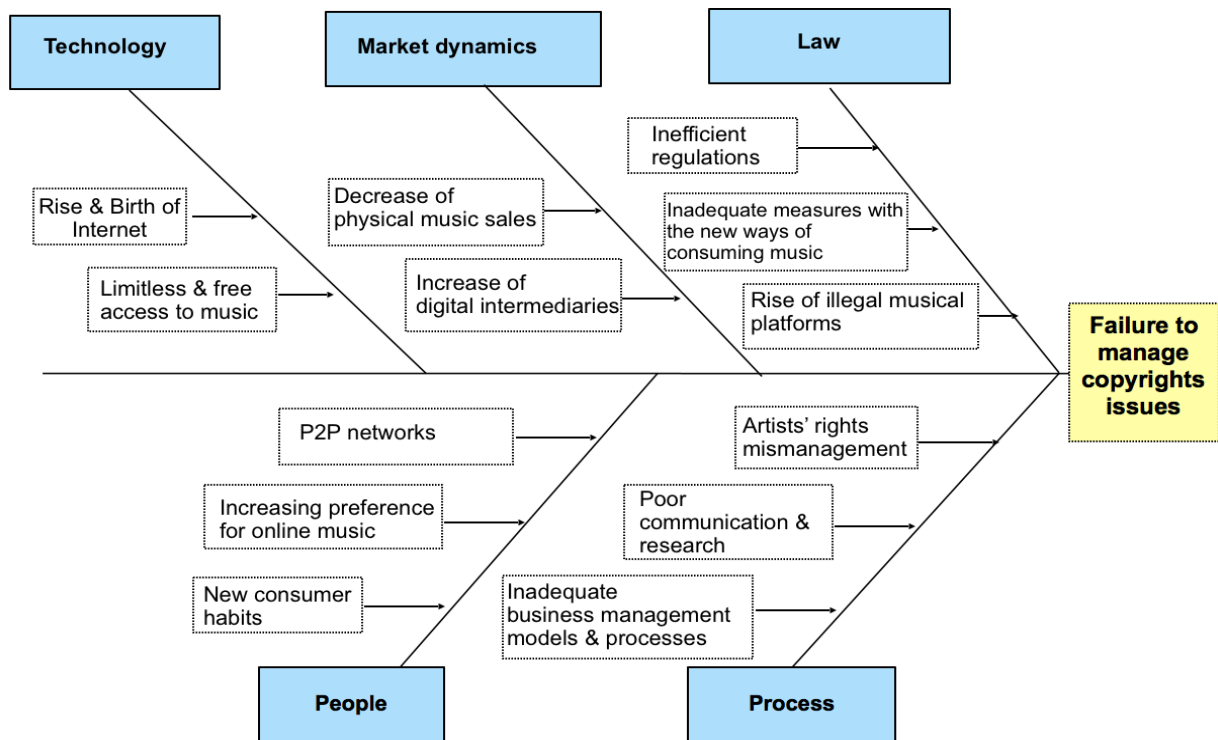


Diagram 1 - Possible Causes leading to copyrights issues management's failure in the Music Industry

All these factors draw major concerns towards the music industry's future - appearing as unable to protect its artists' achievements - and introduce the start of the battle engaged between record labels, copyrights holders and regulations<sup>14</sup>.

On a contractual management scale, these factors had a concrete impact on how record labels managed the various outputs and assets of their industry. The table below defines how project, programs, portfolios and assets concepts relate to our selected topic:

Definition	Application to the music industry
<p><b>Project</b></p> <p>"An investment that requires a set of logically linked and coordinated activities performed over a finite period of time in order to accomplish a unique result in support of a desired outcome"<sup>15</sup></p>	<p>From the music publisher perspective, the making of a song can be regarded as "an investment that requires a set of logically linked and coordinated activities performed over a finite period of time in order to accomplish a unique result in support of a desired outcome" and therefore a project.</p>

<sup>14</sup> Powles, J., (June 2015), *Why the music industry is fighting the wrong copyright battle*. Retrieved from The Guardian's article: <https://www.theguardian.com/technology/2015/jun/19/why-music-industry-fighting-wrong-copyright-battle>

<sup>15</sup> Duncan, W. R. (January 2018), Adapted from a LinkedIn discussion. Retrieved from: <https://www.linkedin.com/feed/update/urn:li:activity:6357416976318558208/> "what is an example of a project?"

<p style="text-align: center;"><b>Program</b></p> <p style="text-align: center;">Program typology<sup>16</sup>:</p> <p>“- Strategic Program: deliver assets and benefits that are directly linked to attaining the sponsoring organization's future state</p> <ul style="list-style-type: none"> <li>- Operational Program: Deliver assets and benefits that are critical to the sponsoring organization day to day operations</li> <li>- Multi-Project Program: achieve synergies from projects with common traits such as shared resources, similar clients or product technology</li> <li>- Mega Project: Deliver a specific asset to the sponsoring organization”</li> </ul>	<ul style="list-style-type: none"> <li>- Strategic Program: a set of campaigns projects to promote artists and their work</li> <li>- Operational Program: an Ep or a Mixtape can be considered as an operational program as it is a primary version of an album delivering the first finished songs of an album and by that minimizing negative impact on the ongoing operations of a project</li> <li>- Multi-Project Program: As each new album released on the market can be defined as a grouping of individual songs - and therefore projects - tied together independently to create a bigger common project, a new album can be considered from the music publisher perspective as a Multi-Project Program as it "achieves synergies from projects with common traits such as shared resources, similar clients or product technology”</li> <li>- Mega Project: a grouping of albums can be considered as a Mega-Project as it is “significantly larger than the sponsoring organization's typical project” and as it delivers a specific asset to the organization.</li> </ul>
<p style="text-align: center;"><b>Portfolio</b></p> <p>“A “portfolio of projects” is no different from any investment portfolio, the objective being to minimize the risk and maximise the return. Any organization, be it Owner or Contractor has a portfolio of assets (resources) available to dedicate to projects, with the objective being to develop the best “mix” of projects which will generate the most favourable return on those assets.”<sup>17</sup></p>	<p>From a music publisher point of view, in order to "develop the best mix of projects" to "generate the most favorable return", a portfolio of projects could be defined as a grouping of individual projects - and therefore songs - which belong to the same musical category (Hip Hop, Rock, Country, Pop) in order to provide the finest association of songs able to meet the functionality and quality standards expected by the future customers. The making of such a portfolio will foster returns and benefits on the concerned projects.</p>

<sup>16</sup> Global Alliance for the Project Professions (2011), *Program Typology*. Retrieved from: <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>17</sup> Giammalvo, P. D, (2015) *Course Materials*. Contributed Under Creative Commons License. Retrieved from: <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<p>A <b>portfolio of assets</b> “uses projects as the means to an end to acquire, create, update, maintain, expand and eventually dispose of organizational assets, their measurement of success is based not so much as whether the project was successful but whether the product the project was undertaken to achieve was successful”</p>	<p>From a music publisher point of view, portfolios of assets are necessary to support portfolios of projects as they are a grouping of tangible or intangible resources gathered with the expectation that these will provide benefits. If there are not enough assets available or found for a project or program realization - her a song or an album production - these and their outcomes might be strongly compromised in term of achievement and benefits. Music advisory services or Music investment services can be perceived as a portfolio of assets.</p>
<p style="text-align: center;"><b>Asset</b></p> <p>“A tangible or intangible resource with economic value that an individual, corporation or country owns or controls with the expectation that it will provide future benefit”<sup>18</sup></p> <p style="text-align: center;">Asset typology:</p> <ul style="list-style-type: none"> <li>- Information Asset</li> <li>- Human Asset</li> <li>- Physical Asset</li> <li>- Financial Asset</li> <li>- Intangible Asset</li> </ul>	<p>The music publisher exploits various assets:</p> <ul style="list-style-type: none"> <li>- <b>Information Assets</b> that correspond to his/her knowledge of the music industry, from his/her business skills to his/her musical techniques</li> <li>- <b>Human Assets</b> that correspond to artists, co-workers or employees surrounding the music publisher as they generate ideas that contribute to the company's and project's successes</li> <li>- <b>Physical Assets</b> that correspond to any equipment or objects he/her may exploit in order to properly achieve his/her work: musical software, studios, recording instruments</li> <li>- <b>Financial Assets:</b> cash, bank deposits, stocks, bonds...</li> <li>- <b>Intangible Assets</b> that include intellectual property towards his/her work, human capital, brand image of the artist or music label</li> </ul>

Table 1 - Project, Program, Portfolio link with the music industry<sup>19</sup>

### Step 1 - Problem definition

The purpose of this research paper is therefore to have a better understanding of the limits and challenges met by intellectual property rights protection in the music industry. Then, to identify and analyze, the contractual evolution towards copyrights protection. Finally, to evaluate in what ways the industry and its management through contracts need to change in order to assure the efficient and sustainable protection of artists' projects.

To resume, this paper will try to answer the following question:

<sup>18</sup> Investopedia. Retrieved from: <https://www.investopedia.com/terms/a/asset.asp#ixzz3cyWSY8x3>

<sup>19</sup> By Author

- *How to assure the protection and sustainability of Intellectual Property Rights in the music industry through contracts?*

## **METHODOLOGY**

After understanding the limits and challenges of intellectual property rights protection faces in the recording industry, we will be able to identify three possible alternatives to copyrights infringement of artists projects. We will use for this research paper some previous studies on legal issues in contract management in the music industry as well as magazine's articles on the topic.

In order to define which alternative is the most appropriate, we developed a multi attribute decision making tool that will allow us to analyse each alternative and to choose the preferred one.

### **Step 2 - Development of the feasible alternatives**

The feasible alternative solutions to preserve efficiently and sustainably artists rights towards their projects are:

- Free-use doctrine towards projects and artists management<sup>20</sup>
- New regulatory measures to prevent unauthorized music distribution<sup>21</sup>
- New business models adopted by record labels<sup>22</sup>

As copyrights protection depends on the explicit and tacit protection of intellectual property, the future of the music industry leans on these two pillars and their evolution regarding sustainability, stability and risk towards copyrights protection. Therefore, the previously quoted alternatives will be analysed through the scope of the following criteria:

- **Tacit Protection**<sup>23</sup>: level of protection "afforded by technological and practical barriers to illicit commerce and unauthorized use"

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<sup>20</sup> Okoli, C., Zhang, W., (2014), *From pests to pets: effects of open content licensing on the distribution of music*. Retrieved from: <https://aisel.aisnet.org/cgi/viewcontent.cgi?article=1221&context=ecis2014>

<sup>21</sup> Throsby, D. (2014, July), *The Music Industry in the New Millennium. Global and Local perspectives*. Retrieved from: [https://www.researchgate.net/publication/237379351\\_The\\_music\\_industry\\_in\\_the\\_new\\_millennium\\_Global\\_and\\_local\\_perspectives](https://www.researchgate.net/publication/237379351_The_music_industry_in_the_new_millennium_Global_and_local_perspectives)

<sup>22</sup> Weusthof, T. *The Role of Intellectual Property in New Business Models in Music*. Retrieved from: [https://essay.utwente.nl/67275/1/Weusthof\\_BA\\_IBA.pdf](https://essay.utwente.nl/67275/1/Weusthof_BA_IBA.pdf)

<sup>23</sup> Lampel, J. ; Bhalla, A. ; Jha, P. (2018, May), *Intellectual Property Rights and Industry Evolution: The Case of the Recorded Music Industry*. Retrieved from: <http://www.dime-eu.org/files/active/0/Lampel-Bhalla-JhaPAPER.pdf>

- **Explicit Protection**<sup>24</sup>: level of protection provided by the law and public education in order to reinforce “copyright enforcement”
- **Stability**<sup>25</sup>: constancy of the alternative’s technology implemented
- **Sustainability**<sup>26</sup>: long-term protection and guarantee of the alternative towards intellectual property
- **Risk**: “the probability or threat of damage, injury, liability, loss, or any other negative occurrence that is caused by external or internal vulnerabilities, and that may be avoided through preemptive action”<sup>27</sup> regarding intellectual property protection in the recording industry
- **Specific**<sup>28</sup>: how specific the alternative is in achieving a defined goal
- **Measurable**<sup>29</sup>: ability to quantify the alternative progress toward the accomplishment of its goal through concrete criterias
- **Agreed upon**<sup>30</sup>: ability for the alternative to be approved by all stakeholders internally or externally involved or who perceived themselves as involved in this issue
- **Trackable**<sup>31</sup>: ability for the alternative concerned of being tracked in terms of results, progress and impact on the considered environment

<sup>24</sup> Lampel, J. ; Bhalla, A. ; Jha, P. (2018, May), *Intellectual Property Rights and Industry Evolution: The Case of the Recorded Music Industry*. Retrieved from: <http://www.dime-eu.org/files/active/0/Lampel-Bhalla-JhaPAPER.pdf>

<sup>25</sup> Rando, R.J., (2016), *America's Need For Strong, Stable and Sound Intellectual Property Protection and Policies: Why It Really Matters*. Retrieved from: [http://randolawfirm.com/uploads/3/4/2/1/3421962/ip\\_insight.pdf](http://randolawfirm.com/uploads/3/4/2/1/3421962/ip_insight.pdf)

<sup>26</sup> Blacc, A.; D.Manta, I.; S.Olson, D. (January 2015), *A Sustainable Music Industry for the 21st Century*. Retrieved from: <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=2007&context=lsfp>

<sup>27</sup> The Business dictionary. Retrieved from: <http://www.businessdictionary.com/definition/risk.html>

<sup>28</sup> Bouëssel du Bourg, T., (July 2013), *An analysis of the digital copyright infringement issue in the music industry - internet piracy*. Retrieved from: <https://www.lepetitjuriste.fr/propriete-intellectuelle/an-analysis-of-the-digital-copyright-infringement-issue-in-the-music-industry-internet-piracy/>

<sup>29</sup> Jacobson, E.M.,(December 2017), *Music Industry Cases and Issues To Watch in 2018*. Retrieved from Forbes' article: <https://www.forbes.com/sites/legalentertainment/2017/12/08/music-industry-cases-and-issues-to-watch-in-2018/#6362e30c5066>

<sup>30</sup> Hornick, J.F., (November 2003), *Copyright Law for Business People: A Handy Guide*. Retrieved from: <https://www.finnegan.com/en/insights/copyright-law-for-business-people-a-handy-guide.html>

<sup>31</sup> Pollack, W., (2000), *Turning In: The Future of Copyright Protection for Online Music in the Digital Millennium*. Retrieved from: <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=3655&context=flr>



### Step 3 - Development of the outcomes for each alternative

#### a. Free-use doctrine towards projects and artists management

Free-use doctrines appeared recently in the record industry as new ways to manage copyrights issues while meeting consumers increasing interest in social media and live performances.

- Impact on Artists Management<sup>32</sup>: Artists decide either to manage themselves or to refer to freelance agents or promoters with very few or no knowledge regarding copyrights infringement. Legal restrictions are no longer taking into account, the principal point of management being assuring the greater spread and impact of artists as possible - regardless of their intellectual ownership towards their projects.
- Impact on Project Management: *Open Licensing Music* is a type of project management that is part of the free-use doctrine and that is defined as “digital music for which the rights holder authorizes royalty-free redistribution, while perhaps imposing some conditions and retaining some restrictions”<sup>33</sup>- meaning that artists would voluntarily renounce to part of their intellectual property rights. This management strategy is aimed to assure the broader scope of distribution for a project as possible regardless of any legal restriction towards copyrights management - perceived as a restriction for the efficient spread of an artist's project.

#### b. New regulatory measures to prevent unauthorized music distribution

As the music industry faces the radical change of its own business environment, organizations in charge of assuring copyrights protection are attempting to update these regulations in order to find more efficient ways to protect music rights<sup>34</sup>.

- Impact on Artists Management: Artists turn themselves more and more to independent management agencies that appear more appropriate to manage the distribution and protection of their work as they assure contractually the artists' full ownership of their rights towards their work and projects. Furthermore, a similar step has been followed in some countries as the legislation stated that from now on artists will be able “to choose

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<sup>32</sup> New Media Rights, (October 2017), *Why do some people choose to give away their copyrighted material instead of trying to make money off of it*. Retrieved from:  
[https://www.newmediarights.org/why\\_do\\_some\\_people\\_choose\\_give\\_away\\_their\\_copyrighted\\_material\\_instead\\_trying\\_to\\_make\\_money\\_off\\_of\\_it](https://www.newmediarights.org/why_do_some_people_choose_give_away_their_copyrighted_material_instead_trying_to_make_money_off_of_it)

<sup>33</sup>Okoli, C., Carillo, K. (2013, September 19th), *Beyond Open Source Software: A Framework, Implications, and Directions for Researching Open Content*. Retrieved from:  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1954869](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1954869)

<sup>34</sup> Center for Arts and Cultural Policy Studies, (2001), *The Digital Music Triologue: Balancing the Interests of Users, Artists and Copyright Owners*. Retrieved from:  
<https://www.princeton.edu/~artspol/studentpap/undergrad%20thesis2%20Rhee.pdf>

an organization that protects their intellectual property"<sup>35</sup> - not necessarily passing by organizations designated by the law. For example, foundations like *Sena* worked on a *Neighbouring Rights Organization* that is "a growing source of global revenue for recording artists and record labels"<sup>36</sup> which delivers licenses to music played in public in order to collect fees then redistributed to the performing artists.

- Impact on Project Management<sup>37</sup>: The industry - wanting to meet the market digital dynamic - focuses on low cost distribution and marketing through new technologies and Internet - using short-term acts via TV shows and social medias partnership to promote and manage artists projects. Labels take a step against copyrights infringements by accelerating projects digital distribution and compete directly with unauthorized music platforms.

### c. New business models adopted by record labels

The substantial issues towards artists intellectual property rights protection brought by the internet era meet another alternative: competing directly with music piracy, illegal streaming and downloading platforms – streaming helping the music industry to make revenues again<sup>38</sup>.

- Impact on Artists Management: The industry transforms its usual business model by investing more in the A&R department as it "gains confidence in being able to market and distribute artists with longer time horizon payback"<sup>39</sup> and as it embraces fully the new technological measures taken to reduce unauthorized reproduction and distribution of music. Artist management is expended to a greater and unlimited scope through their market and distribution via legally owned digital channels assuring the copyrights protection as well as the large impact of their work. The industry through these new models create a close relationship with online communities and find a new, legal and more efficient way to promote their artist.
- Impact on Project Management: New business models of the record industry are changing how artists projects are usually managed towards copyrights infringement -

<sup>35</sup> Weusthof, T. *The Role of Intellectual Property in New Business Models in Music*. Retrieved from: [https://essay.utwente.nl/67275/1/Weusthof\\_BA\\_IBA.pdf](https://essay.utwente.nl/67275/1/Weusthof_BA_IBA.pdf)

<sup>36</sup> Gauberti A. (2015, October), *Neighbouring rights in the digital era*. Retrieved from: <https://crefovi.com/Intellectual%20property%20magazine.pdf>

<sup>37</sup> Throsby, D. (2014, July), *The Music Industry in the New Millenium. Global and Local perspectives*. Retrieved from: [https://www.researchgate.net/publication/237379351\\_The\\_music\\_industry\\_in\\_the\\_new\\_millennium\\_Global\\_and\\_local\\_perspectives](https://www.researchgate.net/publication/237379351_The_music_industry_in_the_new_millennium_Global_and_local_perspectives)

<sup>38</sup> Maddahi, R., (June 2018), *The Music Industry: From Piracy To Profits*. Retrieved from: <https://www.forbes.com/sites/forbesfinancecouncil/2018/07/10/the-music-industry-from-piracy-to-profits/-6221459e70f8>

<sup>39</sup> Lampel, J. ; Bhalla, A. ; Jha, P. (2018, May), *Intellectual Property Rights and Industry Evolution: The Case of the Recorded Music Industry*. Retrieved from: <http://www.dime-eu.org/files/active/0/Lampel-Bhalla-JhaPAPER.pdf>

changing its distribution, marketing and retail initiatives - going from a product-oriented to a service-oriented offering perspective in order “to keep a close artist-fan relationship (that) creates value”<sup>40</sup>. These new strategies consist in offering consumers a range of musical services more experience-oriented than product-oriented, taking a step ahead of illegal platforms by proposing a premium and unique service. These models adapt to the reshaped music industry by proposing online models embracing peer-to-peer networks as an effective releasing channel for distributing music. Increasing investments in online commitment and content development are what will assure an efficient and sustainable protection of artists projects.

#### Step 4 - Selection of a criterion / criteria

In order to analyse the three alternatives found earlier and determine which one appears to be the most appropriate to manage contracts in the record industry while protecting intellectual property rights, the use of a multi-attribute decision model based on satisficing requirements is the tool we chose to eliminate any poor alternative.

Alternatives will be marked with “high”, “medium” and “low” gradings and with colours from red to green to represent respectively the negative, generally fair or positive impact of the alternatives presented. We then obtain the table below:

Attributes	New Business Models	New Regulatory Measures	Free-use Doctrine
Tacit Protection	High	Medium	Medium
Explicit Protection	Medium	High	Poor
Stability	High	High	Medium
Sustainability	High	Medium	Poor
Risk	Medium	Poor	High
Specific	High	High	Poor
Measurable	High	High	Poor
Agreed upon	High	Medium	Medium
Trackable	High	Medium	Poor
<b>Total</b>	<b>High</b>	<b>High</b>	<b>Poor</b>

Table 2 - Multi Attribute Decision Matrix<sup>41</sup>

Considering this matrix, the alternative representing the application of the free-use doctrine to the music industry in order to assure the efficient and sustainable protection of intellectual property rights through contracts can be eliminated as it has the minimum score.

<sup>40</sup> Weusthof, T. *The Role of Intellectual Property in New Business Models in Music*. Retrieved from: [https://essay.utwente.nl/67275/1/Weusthof\\_BA\\_IBA.pdf](https://essay.utwente.nl/67275/1/Weusthof_BA_IBA.pdf)

<sup>41</sup> By Author

We will therefore consider the two remaining alternatives: the establishment of new business models and the implementation of new regulatory measures to answer our paper's question.

## FINDINGS

### Step 5 - Development and outcomes for each alternative

Our analysis started by identifying the causes to the poor management and protection of intellectual property rights in musical contracts and by highlighting the several solution alternatives relevant to this issue. By realizing a qualitative analysis, we managed to eliminate the third alternative considered as it had the lowest score among the three studied. In order to confirm our previous result and to push our analysis further, a quantitative analysis must be realized through a relative weighted technique. To do so, we will use the table below to specify our graduation system from three to five levels in order to be more accurate in the assessment process.

Low	0
Medium-Low	0,25
Medium	0,5
Medium-High	0,75
High	1

The table below shows the score of each alternative considering its attributes:

Attributes	New Business Models	New Regulatory Measures	Free-use Doctrine
Tacit Protection	1	0,5	0,25
Explicit Protection	0,75	1	0
Stability	0,75	0,75	0,25
Sustainability	1	0,25	0
Risk	0,5	1	0
Specific	0,75	1	0
Measurable	1	1	0
Agreed upon	1	0,25	0,25
Trackable	1	0,5	0
<b>Total</b>	<b>7,75</b>	<b>6,25</b>	<b>0,75</b>

Table 3 – Relative weighting of the alternatives – quantitative analysis<sup>42</sup>

<sup>42</sup> By Author

From the previous quantitative analysis, and as the qualitative analysis first showed, we can definitely delete the third alternative advising the free-use doctrine as well the second alternative advising the implementation of new regulatory measures as well. To assure ourselves that the adoption of new business model within the industry is indeed the best alternative among the first two ones and the most relevant to put an end our problem, an additive weighting model is needed.

We get the following table:

Attributes	Ranking	Weighting	New Business Models		New Regulatory Measures	
Tacit Protection	8	0,18	1	0,18	0,5	0,09
Explicit Protection	9	0,2	0,75	0,15	1	0,2
Stability	3	0,06	0,75	0,04	0,75	0,04
Sustainability	7	0,15	1	0,15	0,25	0,03
Risk	5	0,11	0,5	0,05	1	0,11
Specific	6	0,13	0,75	0,09	1	0,13
Measurable	4	0,08	1	0,08	1	0,08
Agreed upon	2	0,04	1	0,04	0,25	0,01
Trackable	1	0,02	1	0,02	0,5	0,01
<b>SUM</b>	45	0,9	<b>SUM</b>	<b>0,8</b>	<b>SUM</b>	<b>0,7</b>

Table 4 – Additive weighting model<sup>43</sup>

### Step 6 - Selection of the preferred alternative

From the relative weighted technique shown in Table 3, the first alternative that consists of the establishment of new business models appears as better than the second one. However, to verify our results, we can now use a ratio scale in order to demonstrate it.

Considering that:  $7,75/6,25 = 1,24$  and  $1,24 * 100 = 124\%$ . The first alternative is 124% times better than the second one.

Now, if we take into account the importance of the specified attributes and use Table 4 with the additive weighted technique:

Considering  $0,85/0,7 = 1,14$  and  $1,14 * 100 = 114\%$ , we may identify the first alternative as better than the second one as well and by 121%, this time.

<sup>43</sup> By Author

We can therefore deduce that the best alternative we have is the establishment of new business models within the music industry as it appears as the most relevant to solve our problem.

This analysis enables us to provide a final ranking of the three alternatives firstly considered:

Rank Order	Alternatives
1	New Business Models
2	New Regulatory Measures
3	Free-use Doctrine

### Step 7 - Performance monitoring post evaluation results

We previously came to the conclusion that the establishment and adoption of new business models by record labels to manage artists and their rights towards their projects may be the proper solution to assure the sustainable and efficient protection of intellectual property rights in the music industry.

In order to track the performance of that solution, different strategies exist:

- Comparison of intellectual property rights' tacit and explicit protection in previous contracts with the protection scope allowed by our proposed solution.
- Comparison of how sustainable copyrights issues management and protection are within our solution versus how they are in other alternatives
- Before-and-After Pareto Analysis: this will highlight the impact of the solution we chose to implement and its positive effect. If the impact is positive, both protection and sustainability issues should decrease considerably.

## CONCLUSION

As the increasing digitalization through "emerging technological advancements"<sup>44</sup> impacted strongly the music environment, the necessary extent in music copyrights appeared as one of the major challenges for an industry which was outdated in terms of business models and artists consideration and protection. While digital and online communities' inclination to engage in illegal file-sharing activities grew exponentially, more than "30 billion songs being illegally downloaded

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<sup>44</sup> Kent Stay University, *The Digitalization of the Music Industry*. Retrieved from:  
<https://musicedmasters.kent.edu/the-digitization-of-the-music-industry/>

between 2004 and 2009<sup>45</sup>, the concern towards artists' work protection became a critical issue making us ask ourselves:

***How to assure the protection and sustainability of Intellectual Property rights in the music industry through contracts?***

After understanding the limits and challenges faced by intellectual property rights protection in the recording industry - through a root cause analysis - we developed three possible alternatives in order to solve our problem: the development of a free-use doctrine towards projects and artists management, the implementation of new regulatory measures to prevent unauthorized music distribution and the adoption of new business models by record labels within the music industry. Through qualitative and quantitative methods of analysis and comparison, we came to the conclusion that the third alternative is preferred. Indeed, reinventing "ways of doing business to remain competitive and successful in a changing landscape"<sup>46</sup> and therefore the diffusion of new business models among the existing record labels, appears as the most efficient and sustainable solution to our problem, as it provides not only the tacit and explicit protection of artists rights towards their achievements but also as it is the most sustainable and stable alternative among others.

As "digital change has fundamentally reshaped the music industry's value chain"<sup>47</sup>, the emergence of a new one is required in order to confront properly the threat of piracy towards artists' right protection. The first step that the industry must be willing to take is therefore to reshape itself in order to respond to the need of a "dynamic concept of business models"<sup>48</sup> - embracing digital intermediaries and transforming them into strategic tools. By changing how artists and their projects are managed towards copyrights infringement and through "context-based services"<sup>49</sup>, the industry will be allowed to meet customers desire for an experience-oriented range of musical services, "and thus creating and maintaining direct relations with

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<sup>45</sup> Marshall Music, (April 2017), *The Effects of Illegal Downloading On the Music Industry*. Retrieved from: <https://www.marshallmusic.co.za/2017/04/05/effects-illegal-downloading-music-industry/>

<sup>46</sup> Global Entertainment and Music Business program of Berklee College of Music, (April 2013), *New Business models in the Music Industry*. Retrieved from: <http://static1.squarespace.com/static/552c0535e4b0afcbcd88dc53/t/553021e3e4b012ff28709a3f/1429217763895/retlink-music-2013-framing-paper.pdf>

<sup>47</sup> Nordgard, D., (2018), *The Music Business and Digital Impacts: Innovations and disruptions in the Music Industry*. Retrieved from: <https://books.google.fr/books?id=z9hwDwAAQBAJ&pg=PA40&dq=The+Music+Business+and+Digital+Impacts:+Innovations+and+Disruptions&hl=fr&sa=X&ved=0ahUKEwj2cS6yPneAhXlzlUKHUa9AugQ6AEILDAA-v=onepage&q=The+Music+Business+and+Digital+Impacts%3A+Innovations+and+Disruptions&f=false>

<sup>48</sup> Dellyana, D., Simatupang, T., (January 2013), *Business Model Innovation in Music Industry: A Literature Review*. Retrieved from: [https://www.researchgate.net/publication/308265800\\_Business\\_Model\\_Innovation\\_in\\_Music\\_Industry\\_A\\_Literature\\_Review](https://www.researchgate.net/publication/308265800_Business_Model_Innovation_in_Music_Industry_A_Literature_Review)

<sup>49</sup> Wikström, P., (April 2012), *A typology of Music Distribution Models*. Retrieved from: [https://musicbusinessresearch.files.wordpress.com/2012/04/ijmbr\\_april\\_2012\\_patrik\\_wikstrom1.pdf](https://musicbusinessresearch.files.wordpress.com/2012/04/ijmbr_april_2012_patrik_wikstrom1.pdf)

costumers”,<sup>50</sup> increasing online commitment and reducing in a sustainable and efficient way music piracy.

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<sup>50</sup> Kaszycka, I., (May 2016), *CRM in Music Industry – Does sharing music online works?* Retrieved from: <http://www.tknowpress.net/ISBN/978-961-6914-16-1/papers/ML16-053.pdf>



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**Audrey Tonkovic** is a 23 years-old French student in the "Grande Ecole" Program at Skema Business School in the Parisian campus of Skema La Défense. After a 2 year-common course in marketing, she enrolled in a Master of Science degree program in Project and Program Management and Business Development. She had a background in literary studies through a 2-year preparatory class in Sainte-Marie de Neuilly - from 2013 to 2015 - before entering Skema Business School in 2015. She was appointed the general secretary of a student union in Skema Lille (France), combining her interests for Music, Fashion and Arts in general.

She had multiple experiences in Project Management especially in Digital Marketing in the Fashion and Press industry through various internships. These experiences allowed her to confirm her will to work in project management and more specifically to work in project management of creatives – assuring the protection and continuous improvement of their work.

Passionate by Art industries, she is looking forward to making her proof as a Project Manager in these areas. Internationally-oriented, through her multiple student exchange experiences of 5 months each in Brazil (Belo Horizonte, Fundação Dom Cabral) and then in the United States (Raleigh, North Carolina State University (NCSU)), multiculturalism is something that she truly values - professionally and personally - as a great asset for general knowledge, personal culture, and great open-mindedness.

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