

How Songwriters, Composers, and Performers Get Paid

Information
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Copyright
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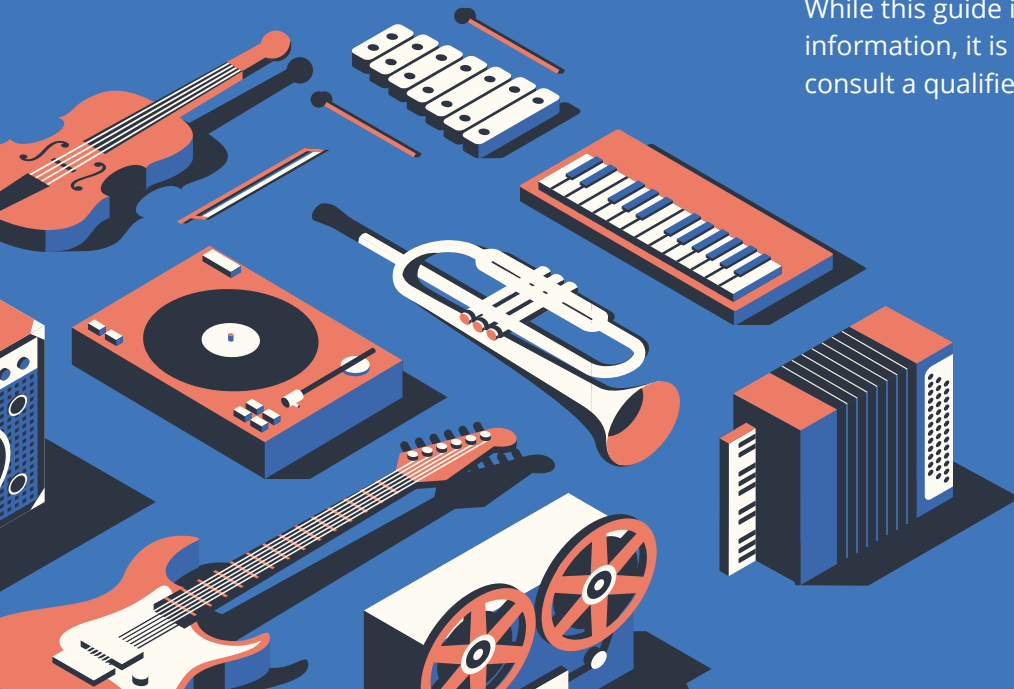
There are a lot of different ways to get paid for your songs, whether you write music, write lyrics, sing, or perform an instrument. Copyright law affects each of these roles differently, but once you know the basics and how you might partner with various businesses or organizations, you're on your way to getting paid for the use of your music. Whether your music is used on AM/FM radio, a streaming service like Spotify, a podcast, a Facebook live concert, or in a TV show or movie—copyright law can affect how licenses are obtained, who gets paid, and how those royalties are distributed.

As you read this guide, we suggest starting with “Copyright and Music: Breaking It Down” and then reading the section or sections that apply to you. You may also want to read “A Note on Song Data” to understand how the music industry uses unique identifiers to better recognize different songs, authors, publishers, and other contributors for licensing or royalty payments.

While this guide is intended to give you some important background information, it is not intended to be legal advice. As always, it is important to consult a qualified attorney before signing any contracts.

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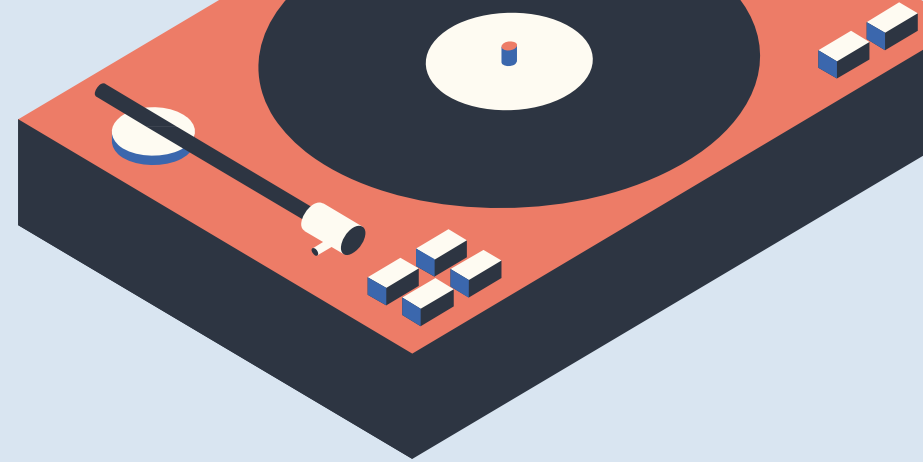


Copyright and Music: Breaking It Down

A song involves two distinct works protected by copyright: a musical work and a sound recording.

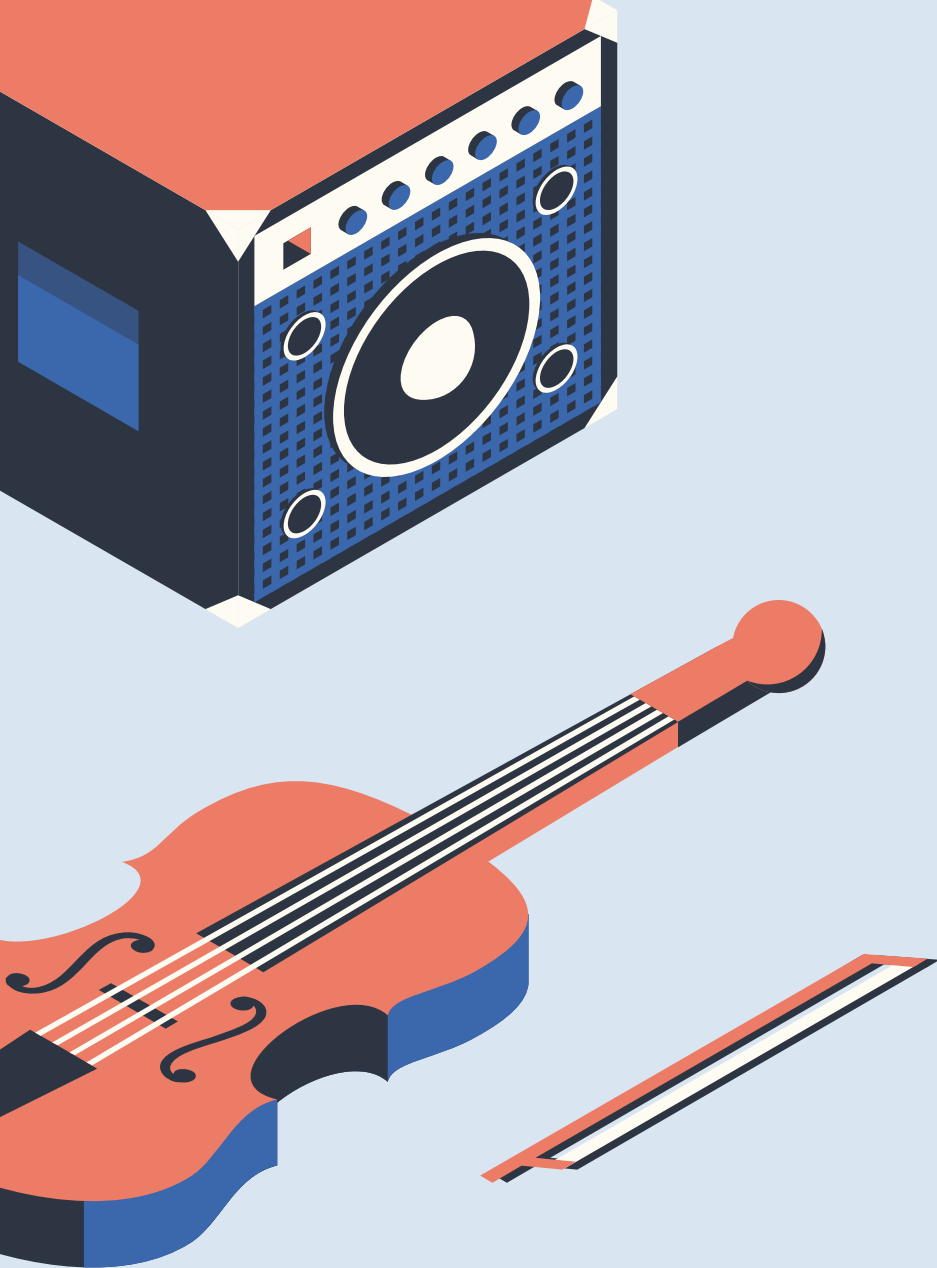
A **musical work** is a song's underlying composition (think musical notes on sheet music) along with any accompanying lyrics. Composers and lyricists are both songwriters. If you're a **songwriter**, see the next page on some basics of how to get paid for your works.

Note: Creative works expressed in words without an accompanying musical composition, e.g., non-music spoken word, podcasts, and comedy routines, are commonly available on streaming and download services. These works are protectable under copyright, but are not "musical works" and are subject to different licensing rules.



A **sound recording** is a series of musical, spoken, or other sounds created by the performer who is being recorded, the record producer who processes and fixes the sounds, both, or even another entity if the work qualifies as a "work made for hire," such as if it was prepared for your employer or specially commissioned for a compilation. Sound recordings include the audio files exported from your digital audio workstation or, historically, the audio recorded on magnetic tape. If you're a **performer** who contributed to a sound recording, see the following pages on how to get paid for your work. We've also added a section for **producers, mixers, or sound engineers** who were part of the creative process to make a sound recording.





Generally, copyright grants authors the rights to:

- reproduce the work (e.g., pressing CDs or vinyl or copying an MP3);
- prepare derivative works (e.g., interpolations, sampling/remixes, or “synchronizing” music in audiovisual works, including movies or commercials);
- distribute copies of the work (e.g., selling or giving away CDs or downloads to the public);
- publicly perform the work (e.g., performing your song in a local venue or having your song played on the radio); and
- publicly display the work (e.g., displaying your lyrics online).

But owners of sound recordings do not have all of these rights. Sound recordings have no public display right and the public performance right for sound recordings in the United States is limited to **digital** audio transmissions, e.g., on internet streaming services or on satellite or cable radio. This means that traditional AM/FM radio stations do not have to get permission (or pay royalties) to publicly perform sound recordings. For more information on sound recordings, see *Sound Recordings vs. Musical Works* at copyright.gov/music-modernization/sound-recordings-vs-musical-works.pdf and *Copyright Registration for Sound Recordings* (Circular 56) at copyright.gov/circs/circ56.pdf.



I'm a Songwriter—How Do I Get Paid?

In the United States, songwriters can license their musical works (music and lyrics) themselves or, more commonly, assign the rights in their works to publishers and license their public performance rights (including their share of such rights) to performing rights organizations (PROs). The most popular U.S. PROs are ASCAP, BMI, SESAC, and GMR.

Affiliate with a Publisher or Publishing Administrator

Often, songwriters partner with music publishers to help get paid for the use of their songs. Music publishers can license a songwriter's works, register the songwriter's songs with performance and mechanical rights organizations, monitor use of the works, and collect and distribute royalties. These music publishing licenses can include using musical works in sheet music, in recorded music, in commercials, television and movies, video games, bars and restaurants, and many other possibilities. Publishers may also help a songwriter with other matters, including advances, securing commercial recordings of the songwriter's music with recording artists, providing career advice, and enforcing the songwriter's rights when their works are infringed. Songwriters and publishers use contracts to establish the specifics of their relationship. The question of which publisher to use and what the contract should include are very important choices in a songwriter's career.

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In a traditional publishing arrangement, the songwriter assigns the copyright interest in a song to the publisher, who distributes a portion of royalties to the songwriter (the “songwriter’s share”) and retains a portion as compensation (the “publisher’s share”). In addition to traditional songwriter-publisher agreements, songwriters may engage in other types of agreements, including co-publishing, administration, or sub-publishing agreements to license their works and collect their royalties.

A **co-publishing agreement** is an arrangement by which songwriters do not assign the entirety of their copyrights to a publisher and instead retain a percentage of the copyright for their own publishing company. This relationship allows the songwriter to keep a greater share of royalties as they are able to retain a portion of the publisher’s share.

A **sub-publisher agreement** typically involves using a foreign publisher to represent and exploit a songwriter’s musical works in a foreign country. The sub-publisher will engage in all of the services that a domestic publisher provides including collecting and licensing performance, mechanical, synchronization, and print income rights.

An **administration agreement** is an arrangement by which a publisher or publishing administrator is not assigned the songwriter’s copyrights, but performs administrative duties (e.g., registration, licensing, royalty collection, and income distribution) for a fee, usually measured as a percentage of the royalties collected. With traditional publishers, an administration agreement is also more commonly available to commercially successful songwriters, but can be entered into by any songwriter with a willing publisher or administration company.

A songwriter may **self-administer** and perform the functions a publishing administrator would typically manage.



Affiliate with a PRO

PROs help both songwriters and publishers by licensing, on a non-exclusive basis, musical works' public performance rights. PROs most commonly bundle performance rights from different songwriters and license all of those rights together to AM/FM radio stations, television, streaming services, bars and restaurants, arenas, and to other users who want to publicly perform musical works. For a songwriter or publisher to get paid by a PRO, they must sign an agreement that allows the PRO to license their musical works (or musical work share) and collect and distribute that share of musical work performance royalties. PROs typically pay songwriters and publishers their royalties directly, as opposed to the publisher collecting the full amount of royalties and then paying the songwriter. Note that, because PROs are only granted performance rights on a non-exclusive basis, copyright owners retain the right to engage in direct licensing with users. The most-often used U.S. PROs are ASCAP, BMI, and the invitation-only SESAC and GMR.

Information on these PROs can be found at:

ASCAP, [ascap.com](https://www.ascap.com)

BMI, [bmi.com](https://www.bmi.com)

SESAC, [sesac.com](https://www.sesac.com)

GMR, [globalmusicrights.com](https://www.globalmusicrights.com)

Register with the MLC

In addition to voluntary licenses, U.S. copyright law also has compulsory licenses, which means that the license is governed by statute, not contract, and songwriters or publishers cannot normally decline the license request. In the United States, the "mechanical" compulsory license under section 115 of the Copyright Act, allows others to reproduce and distribute musical works via audio only distribution (e.g., a CD, download, or interactive stream). It does not include the rights to reproduce or distribute sound recordings of a composition, which must be licensed separately). For digital uses of the mechanical license, such as interactive streaming and digital downloads, the government has designated the Mechanical Licensing Collective (MLC) as the nonprofit collective that will collect and distribute digital mechanical royalties under the mechanical compulsory license, starting in 2021.

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To get paid under the mechanical compulsory license for digital uses of musical works, including for interactive streaming and digital downloads, you must make sure that the MLC has identified your songs in its database, matched those songs to recordings being streamed or downloaded, has identified you as the work's owner (or co-owner), and has your payment and tax information. You can do this by registering with the MLC using its online claiming portal. Registering with the MLC does not prevent you from affiliating with other services to facilitate mechanical (or other) licensing, as voluntary licensing remains permitted under the MMA. Subscribe to the Copyright Office's MMA newsletter to keep track of MLC updates.

The MLC's website can be found at TheMLC.com.

For more information about the MLC and to sign up for the Office's MMA newsletter, visit copyright.gov/music-modernization/.

Register or Record Your Musical Works with the Copyright Office

Registering your works with the MLC does not mean you have registered your work with the Copyright Office. That is a different process that has a number of other benefits. Importantly, for all domestic works, registration is required for U.S. authors to go to court to enforce their rights and to be eligible for statutory damages and attorneys' fees. Learn more in our Copyright Registration circular at copyright.gov/circs/circo2.pdf.

While record labels or mechanical licensing agents, such as the Harry Fox Agency (HFA) or Music Reports, frequently engage in direct licensing or "clearance" of uses of musical works, to ensure that you are due a royalty under the mechanical compulsory license for non-digital uses of musical works, such as for pressing vinyl records or CDs, you must be identified in the registration or other public records of the Copyright Office, such as its archive of transfers of ownership and other recorded documents. While the MMA updated the mechanical compulsory license system for digital uses, the system for physical uses did not substantially change.

Register your works here: copyright.gov/registration

Record your musical works here: copyright.gov/recordation/domw/





I'm a Performer—How Do I Get Paid?

Sign with a Record Label or Use an Aggregator or Distributor

In the United States, sound recordings are created by a record label, performer, or record producer, but no matter who originally authored the sound recording or “master,” it is commonly the record label that ends up in charge of licensing the work. Record labels promote the recorded song, engage in licensing, monitor the recording’s use, and collect and distribute royalties. These licenses can include use in records, MP3s, CDs, digital streaming services, commercials, television and movies, video games, and many other possibilities. Record labels may also help performers with other matters, including providing advances, providing career advice, and enforcing artists’ rights when their works are infringed. Performers and record labels use contracts to establish the specifics of their relationship.

As noted above, sound recordings have different rights than musical works. The public performance right for sound recordings is limited to digital audio transmissions like on Spotify, Apple Music, or Sirius XM. This means that AM/FM radio stations, bars and restaurants, and other live venues do not have to get permission (or pay royalties) to publicly perform sound recordings.

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Performers can either be a featured artist, non-featured vocalist (e.g., backup singer), or non-featured musician (e.g., a session musician). As discussed below, under the sound recording compulsory license, a “featured” artist is the artist who is most prominently highlighted on a song, i.e., the “main” or “primary” artist. Under this compulsory license, other performers are considered “non-featured.” For example, in the song “Juice” by Lizzo, the featured artist is Lizzo, a non-featured vocalist is Theron Thomas, and a non-featured musician is Ricky Reed.

Some copyright owners, often independent or DIY sound recording creators, use music aggregators or distributors to distribute their music to digital music providers, such as iTunes, Amazon Music, and Spotify. These distributors may provide other services, such as registering works with SoundExchange or foreign “neighboring rights organizations”¹ and helping obtain unique identifiers (e.g., ISRCs, UPCs, etc.). Like record labels, aggregators and distributors use contracts to establish the specifics of their relationship with copyright owners. Aggregators and distributors may charge an upfront fee, a recurring fee, or a percentage of your royalty income for their services.

Register with SoundExchange (as a featured artist) or the AFM and SAG-AFTRA Intellectual Property Rights Distribution Fund (as a non-featured artist)

In addition to voluntary licenses, U.S. copyright law also has compulsory licenses, which means that the license is governed by statute, not contract, and performers or labels cannot normally decline the license request. In the United States, there is a compulsory license for using sound recordings in non-interactive webcasting and for certain satellite and cable radio streaming under section 114 of the Copyright Act.

¹ Rights governing sound recordings may be called “neighboring rights” in foreign countries.

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When a service takes advantage of this compulsory license, royalties are paid to SoundExchange, a collective management organization (CMO) designated by the government to collect and distribute royalties via a predetermined statutory split. Copyright owners (often record labels) receive 50 percent of these royalties, while featured artists receive 45 percent, and non-featured musicians and non-featured vocalists receive 2.5 percent each. Note that non-featured musicians and vocalists are paid through the American Federation of Musicians (AFM) and Screen Actors Guild – American Federation of Television and Radio Artists (SAG-AFTRA) Intellectual Property Rights Distribution Fund. Also note that SoundExchange collects royalties for some non-music sound recordings, such as comedy routines.

To get paid under the sound recording compulsory license as a copyright owner or featured artist, you must register with SoundExchange, the nonprofit collective designated by the government to collect and distribute royalties under this compulsory license. SoundExchange will ask you for information about your work, co-performers, proof of identification, and payment, bank, and tax information.

If you are a non-featured vocalist or musician, you should register with the AFM & SAG-AFTRA Intellectual Property Rights Distribution Fund to get paid any statutory royalties due. Note that you do not have to be a member of AFM or SAG-AFTRA to be entitled to receive royalties from the Fund.

Register with SoundExchange at soundexchange.com

Register with AFM & SAG-AFTRA Intellectual Property Rights Distribution Fund at afmsagaftrafund.org



I'm a Producer, Mixer, or Sound Engineer — How Do I Get Paid?

In the United States, producers, mixers, or sound engineers who are not copyright owners, but who were part of the creative process to make a sound recording, get paid according to their contract. They may also get royalties for their contributions through the sound recording compulsory license, if either:

1. the featured artist directs SoundExchange to pay a portion of their royalties to the producer, mixer, or engineer via a "letter of direction"; or
2. for sound recordings fixed before November 1, 1995, if both the qualified contributor and SoundExchange attempt to obtain a letter of direction through a formal process and the featured artist does not make an affirmative objection.

For more information on the letter of direction process, contact SoundExchange at [soundexchange.com](https://www.soundexchange.com).

A Note on Synchronization Rights (Audiovisual Works)

When someone incorporates a musical work or sound recording into an audiovisual work—such as a film, television program, advertisement, or video game—they have to obtain a separate license for those rights. A license to the composition is commonly referred to as a “synchronization” license, often shortened to a “sync” or “synch” license. A corresponding license to the sound recording is often referred to as a “master use license.” Synchronization refers to the use of music in “timed-relation” to visual content. There is no synchronization or master use compulsory license. The mechanical compulsory license does not apply to audiovisual works, including movies, television, and even online video streaming, because it only applies to making and distributing “phonorecords.” Under the Copyright Act, phonorecords include sounds fixed in CDs, vinyl, or MP3s, but, by definition, exclude any sounds “accompanying a motion picture or other audiovisual work.”² Copyright owners or their representatives will negotiate voluntary synchronization licenses directly in the free market.

Note: Some online platforms that host user-uploaded video content will rely on copyright law’s “safe harbor” provisions to insulate themselves from copyright infringement liability. For more information on this law, please see the Copyright Office’s 2020 report “Section 512 of Title 17,” at <https://www.copyright.gov/policy/section512>.

² 17 U.S.C. §§ 101, 115(e) (definitions of “phonorecord” and “digital phonorecord delivery”).

A Note on Song Data

When tracking how songs are used on streaming services to make sure creators are paid accurately, everyone appears to agree that using unique identification numbers to recognize both musical works and sound recordings is essential to an efficient licensing system. Two of the most common unique identifiers for music are the International Standard Musical Work Code (ISWC) for musical works and the International Standard Recording Code (ISRC) for sound recordings. Other identifiers include the Interested Parties Information (IPI) code for musical work creators and publishers and the International Standard Name Identifier (ISNI) for creators of all types.

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ISWCs for Musical Works: An ISWC is used to identify a musical work and its composers, authors, and arrangers. Musical work owners get ISWCs through local or regional issuing agencies, e.g., PROs. The regional issuing agency for the United States and Canada is operated by ASCAP. You do not have to be affiliated with ASCAP to get an ISWC, but you must be registered with a PRO and will need the following information:

1. the title of the work;
2. whether the work is a derivative work (a work based on or derived from one or more already existing works, e.g., an arrangement of a preexisting musical work);
3. the work classification code ³ (assigned by your PRO); and
4. the identification of all composers, authors, and arrangers of the work and their Interested Parties Information (IPI) codes.

IPIs for Musical Work Creators and Publishers: An IPI code is used to identify the individuals or entities associated with particular musical works. Your IPI code can be obtained from your PRO. Once a writer's or a publisher's membership in a PRO is accepted, the PRO will obtain an IPI for that member. Note that a writer who uses multiple pseudonyms will have multiple IPI codes.

³ ISWC work classification codes indicate the type of work, including if the work is a composite (incorporates another work), version (original or based on another work), or excerpt (part of a larger work).

ISNIs for Creators: An ISNI code is similar to the IPI in that it identifies contributors to creative works, but it is not limited to musical work composers, authors, and arrangers. An ISNI code can also be used to identify performers, producers, publishers, visual creators, aggregators and more. It can be obtained from several registration agencies, including SoundExchange, YouTube, and Soundways. To obtain an ISNI, you will need to provide:

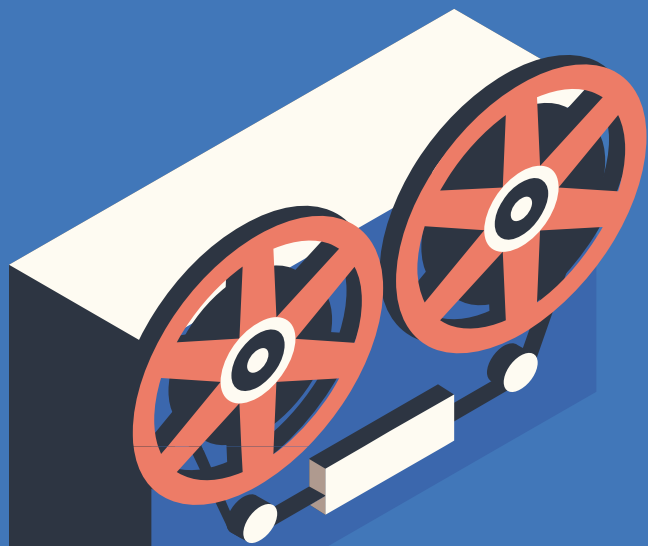
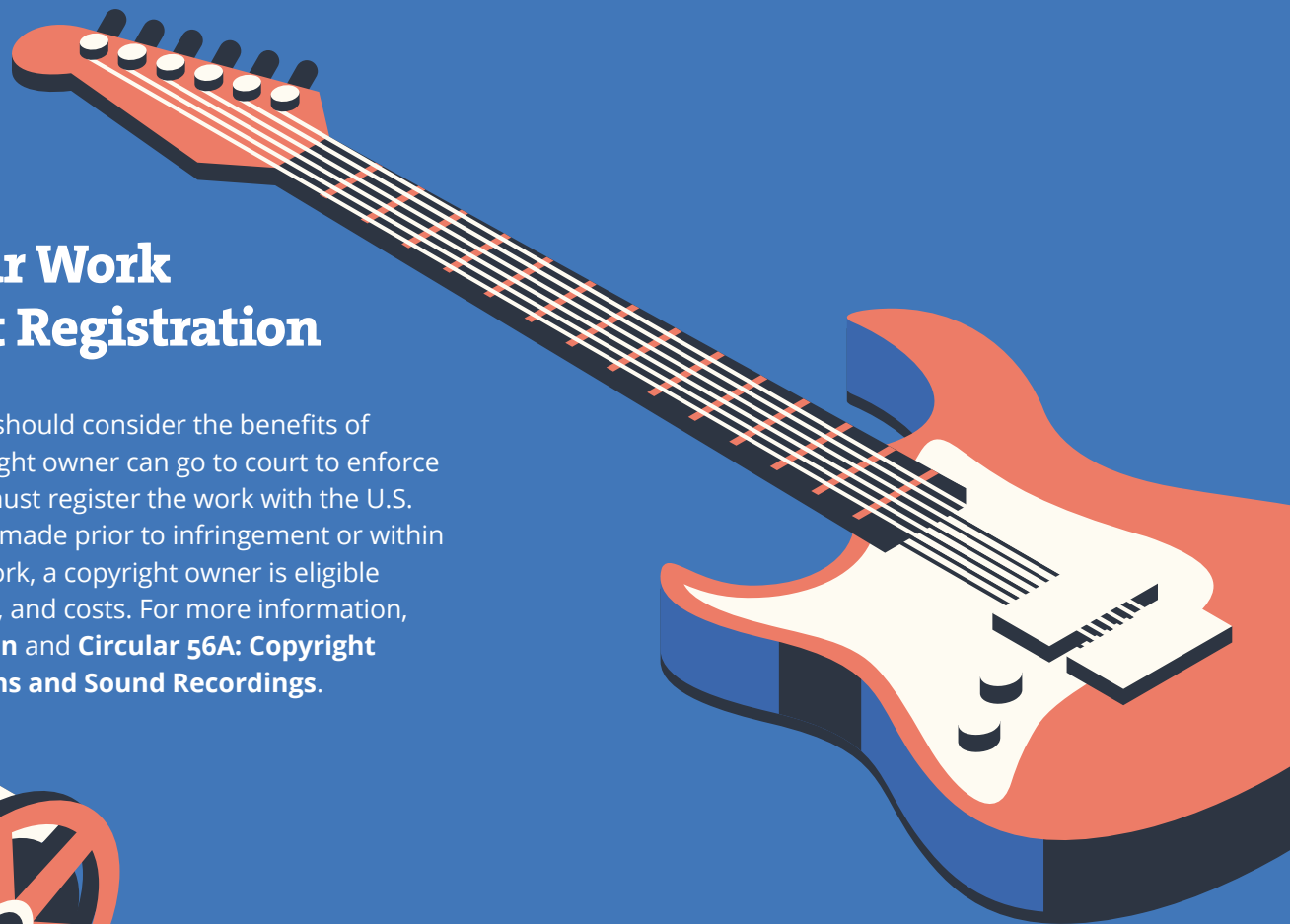
1. a "public identity" or name;
2. date and place of birth and or death (for people);
3. class (type of work) and roles (author, performer, publisher, etc.);
4. title; and
5. a link to more detailed information about the public entity.

ISRCs for Sound Recordings: An ISRC is used to identify a sound recording or music video and its artist. Record labels or "ISRC Managers" (e.g., music distributors, aggregators, or sound engineers) commonly assign ISRCs to recorded music. To obtain an ISRC, you will need to provide your label or ISRC Manager with:

1. a track title; and
2. the name of the featured artist.

How to Protect Your Work Through Copyright Registration

If you want to protect your work, you should consider the benefits of copyright registration. Before a copyright owner can go to court to enforce their rights in a domestic work, they must register the work with the U.S. Copyright Office. When registration is made prior to infringement or within three months after publication of a work, a copyright owner is eligible for statutory damages, attorneys' fees, and costs. For more information, see **Circular 2: Copyright Registration** and **Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings**.



United States Copyright Office
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copyright.gov

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