

Musical Works, Sound Recordings & Copyright

When you record a song, you may be creating two works that can be protected by copyright law: a musical work and a sound recording. These works are subject to different rules under the Copyright Act and are commonly owned and licensed separately.

For both musical works and sound recordings, copyright protection begins the moment the work is fixed— for example, when a song is recorded in an audio file or when a musical work is notated in sheet music or a digital file.



Musical Works

A musical work is a song's underlying composition created by a songwriter or composer along with any accompanying lyrics.

The copyright owner of a musical work has the rights to make and distribute copies of it, publicly perform or display it, and make derivative works from it (including interpolations, remixes, or even videos using the musical work). Anyone else who wants to do these things must either get a license from the copyright owner, use a statutory license, or have an exemption apply, like fair use. A statutory license is created by operation of law, not by contract. With a statutory license, a copyright owner cannot say “no” to uses of their work, as long as the licensee complies with applicable legal requirements.

Sound Recordings

A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium, such as a CD or digital file, called a “phonorecord.” But note that sound recordings are not limited to recordings of musical works. Sound recordings can also be lectures, podcasts, or other audio recordings. The author of a sound recording can be 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.

The copyright owner of a sound recording has the rights to make and distribute copies of the work and make derivative works from it (including remixes or videos using the sound recording). The public performance right for sound recordings, however, is limited to digital audio transmissions. This means that AM/FM radio stations do not have to get permission (or pay royalties) to publicly perform sound recordings. Anyone else who wants to use a sound recording must either get a license from the copyright owner, use a statutory license, or have an exemption apply, like fair use. Unlike musical works, owners of sound recordings do not have a public display right.

Note that sounds accompanying a motion picture or other audiovisual work are not considered sound recordings under copyright law but are part of the motion picture or audiovisual work itself.



Copyright Registration

Even though musical works and sound recordings are separate works under copyright law, you may be able to register them together on a single application with a single filing fee if the copyright owner of the sound recording and musical work are the same. For more information on registering your songs, see ***Copyright Registration of Musical Compositions and Sound Recordings (Circular 56A)*** on our website at copyright.gov/circs/circ56a.pdf.