

## UK Copyright Laws

Governed by the Copyright Designs and Patents Act 1988, the copyright law gained its roots from the common law. The very first milestone attained by the UK was the "The Statute of Anne", passed in 1709 in England for authors mainly to benefit from establishing copyright laws (UK Copyright Law 2000). This was finally statuated by the congregation of the Copyright Act 1911, providing control over how the material of any dramatic, musical, literary, artistic creations, broadcasts, etc is used by anyone other than the creators. Moreover, it provides the ability to produce, reproduce, perform, and publish any part of the work or its entirety. In regard, to music, literary, and dramatic works: creating a record, making a film, or any other way it gets performed under which the act is authorized. (Copyright, Act (Consolidation) 1911). The music work may be the sounds, beats, or recording but the lyrics and words within the music are still considered 'literary work' therefore applying this act.

In the United Kingdom, unlike other countries, copyright registration is not required and is already upon the creator when they have produced their work. For musical artists too, no registration is required and they have the right to copyright as soon as the music is produced; being original and showing a level of skill and judgment. A certain duration allocated to copyright for sound recordings is 50 years from the final date of the calendar year the work was created, and if it was published or open to the public, 70 years. In terms of literary, dramatic, and musical works 70 years from the last date of the calendar year the work was published, or if not, when the creator dies, or is unknown (UK Copyright Law 2000).

Infringement of copyright is where the creator's work is copied, made issues of, and rented to the public, performed in the public, or even if the work is adapted; without the creator's consent (UK Copyright Law 2000). Through the case of Ed Sheeran and his copyright infringement, this essay will discuss whether the copyright laws of the UK need a

parliamentary review.

There are various cases where using someone else's work in the music industry, does not lead to copyright infringement. Such cases are prevented under the guidelines in which there are acts not infringing on someone. Fair dealing, is the concept in which acts are permitted within a certain parameter of copying different areas of a work, and not infringing copyrights. This can occur if there is research or private studying, performances, copies for education purposes, news reporting, unintentional use, use by librarians, parody/skit, tasks surrounding the Royal Commissions, Court/legal requirements, time shifting, and for a copy for personal use on a computer program for backup (Copyright, Act (Consolidation) 1911)

In 2018, Ed Sheeran was charged with copyright infringement by Sami Chokri and Ross O'Donoghue alleging that a verse "Oh I, Oh I, Oh I, Oh I" from Ed Sheeran's song "Shape of You" was similar to their 2015 song "Oh Why". Copyright infringement was alleged after Ed Sheeran and co-writers along with him, denied this claim. The key factor to evaluate this is whether the entirety of the song was copied or just a part of it, and whether or not that part is substantial. The final verdict was spoken by Justice Zaccaroli, stating that Ed Sheeran had "neither deliberately nor subconsciously" copied a phrase from "Oh Why". He further explained that there were similarities such as the repetition of "Oh I" in the song "Shape of You" but this was considered only a minor similarity to "Oh Why" from the song by Sam Chokri. Providing the understanding that such claims were only a starting point or minor for a copyright infringement, as compared to major differences in the two songs (Khomami 2022).

These copyright claims are found to be common today, as settling for a settlement offer seems cheaper than going to court, regardless of whether the claim has a base or not. In addition to this, it not only damages the music industry but also highlights the fact that "There are only so many notes and very few chords used in pop music" says Ed Sheeran. The use of certain

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chords and notes, as well as in a large sector such as pop music, with more than 60,000 songs released every day with the availability of only 12 notes shows that there may be coincidences and that it's likely coincidences as such (Khomami 2022). However, musicologists from both ends had contrasting insights on the unique creation of the song and how these melodies and rhythms can't be a coincidence (Sami Chokri vs Ed Sheeran 2022).

Ed Sheeran and his co-writers had asked for the infringement case to be dropped. Before this, McDaid and McCutcheon, co-writers of "Oh Why" stated a joint statement explaining their acknowledgment and respect for music produced by other musicians and collaborators regardless of how successful they may be. Furthermore, this case affected not only the creativity of their music and ideas but also their mental health. As musicians, they seem to be dealing with lawsuits while they aren't producing music as well as affecting other songwriters everywhere. Similarly, for Ed Sheeran, this case also affected his reputation and also affected him personally as he stated that he isn't a corporation. The case ended with a verdict that Ed Sheeran had not infringed the copyright in "Oh Why" (Khomami 2022).

Through the understanding and analysis of this case, copyright laws must be reviewed by the UK parliament, as they need to follow up with the music industry and their current and future challenges. Arguments that present this case are: Music has changed since the initiation of copyright laws and the development of technology. The basis of copyright laws and the intention behind them is valued by the originality of the creation and its creator. But what's also important with copyright, is the understanding that music and its form of creation have changed over time. Music has changed, and it isn't the same as it was 50 years ago. Including the kind of music, platforms to listen to music, and the interpretation of music. Hayleigh Boshier, dean of intellectual property at Brunel University, states "If Sheeran loses, I imagine we will see even more cases. I don't think copyright is doing its job properly if songwriters are afraid, that's

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stifling creativity” (Hall 2022). This exactly supports Ed Sheeran's claim that protecting musicians from copyright is as much part of the job description as it is to make music. In addition to this, if dealing with legalities becomes a larger issue than making better music, what could happen to that industry and its effect on people? (Hall 2022).

There is a further question about how courts evaluate cases of copyright infringement. This is done over two aspects whether the songwriter has heard the song before and whether the claimed infringed aspect is a substantial part or not. For example, Katy Perry, in a case of copyright infringement, was determined by the judge that she had heard the song made by the complainant at least once. Just because of the number of streams on YouTube, is 63,333. According to Boshier, this number is still low compared to how many platforms for music there are and the availability to a large audience base. Technology brings the aspect of music platforms and how songs are accessible over multiple different areas across the internet including some mentioned above: Spotify, YouTube, Apple Music, etc. The bases opened an entirely new arena for music to be heard and made it greatly accessible to larger audiences. The Musicians Union, general secretary, Naomi Phl has spoken about how such cases have taken a high surface against ‘popular’ pop musicians reflecting imbalance within the music industry. It hasn't only affected musicians and their careers, but especially songwriters who are on a smaller scale suffering loss in their revenue due to streaming (Hall 2022).

On the contrary, there may be an aspect in terms of Ed Sheeran's case with “Oh why”, that he has had prior cases and actions taken against him for copyright infringement showing a pattern. However, he has also won his past cases as well of copyright infringement with his songs “Thinking Out Loud” and “Let's Get It On” by Marvin Gaye. This also ended with him saying how damaging these cases are, and over melodies, rhythmic sounds, or scales that are limited within the music. In addition, many beats, sounds, and melodies are unprotected and

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available entirely, which is one of the arguments used in the case against Marvin Gaye (Rawat 2023).

The Copyright laws must be reviewed and tweaked according to the current music industry, the creation of songs, and future & upcoming challenges. Having understood the idea and concept behind copyright infringement, and the very meaning of copyright; the cases being presented today are not just baseless but could also open a way to attain money through settlements. In addition, this affects both parties involved, and their mental health, which is critical for every human being today. If a musician has to worry about lawsuits being infringed on every aspect of their creativity, how would music look 10 years down the line? It's also important to understand that the law is not the same as it was 100 years ago, and that adaptation must be respected in such cases and generally too. As the world evolves, the law adapts, but the roots shall always be respected.

Works Cited

- “Copyright for Songwriters, Composers & Lyricists | Musicians' Union.” *The Musicians' Union*,  
<https://musiciansunion.org.uk/working-performing/composing-and-songwriting/copyright-for-songwriters-and-composers>. Accessed 31 December 2023.
- Fitzgibbon, Joseph. “How Will Ed Sheeran's Copyright Infringement Win Impact The Music Industry? - Copyright - UK.” *Mondaq*, 10 May 2022,  
<https://www.mondaq.com/uk/copyright/1191312/how-will-ed-sheerans-copyright-infringement-win-impact-the-music-industry>. Accessed 31 December 2023.
- Hall, Rachel, and Charles Dickens. “'Music is so different now': Copyright laws need to change, says legal expert.” *The Guardian*, 13 March 2022,  
<https://www.theguardian.com/music/2022/mar/13/music-is-so-different-now-copyright-laws-need-to-change-says-legal-expert>. Accessed 31 December 2023.
- Khomami, Nadia. “Ed Sheeran wins court battle over Shape of You plagiarism accusation.” *The Guardian*, 6 April 2022,  
<https://www.theguardian.com/music/2022/apr/06/ed-sheeran-wins-court-battle-over-shape-of-you-plagiarism-accusation>. Accessed 31 December 2023.
- O'Toole, Clare. “The Shape of UK law on copyright infringement.” *CMS LawNow*, 23 March 2022,  
<https://cms-lawnow.com/en/ealerts/2022/03/the-shape-of-uk-law-on-copyright-infringement>. Accessed 31 December 2023.
- Rawat, Kshitij Mohan. “Explained: Why Ed Sheeran is facing copyright infringement lawsuit.” *WION*, 2 May 2023,  
<https://www.wionews.com/entertainment/explained-why-ed-sheeran-is-facing-copyri>

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ght-infringement-lawsuit-588181. Accessed 31 December 2023.

“Sami Chokri vs Ed Sheeran: What's the 'Shape of You' copyright case all about.” *Firstpost*, 28 March 2022,

<https://www.firstpost.com/world/sami-chokri-vs-ed-sheeran-whats-the-shape-of-you-copyright-case-all-about-10497151.html>. Accessed 31 December 2023.

“UK Copyright Law.” *UK Copyright Service*,

[https://copyrightservice.co.uk/\\_f/5716/9839/4538/edupack.pdf](https://copyrightservice.co.uk/_f/5716/9839/4538/edupack.pdf). Accessed 31 December 2023.

<https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/il/il013en.pdf>