

# Ogier



## **Musicians and Intellectual Property: What musicians need to know**

**24 April 2023**

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Partner

# Welcome and Introduction

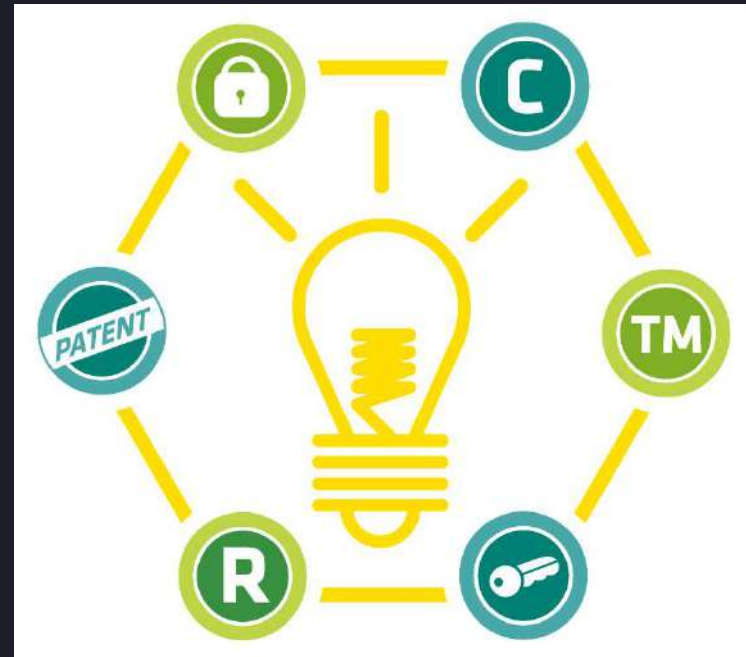
## Outline

- Intellectual Property – what does it mean?
- Music and copyright
- Moral Rights
- Performance Rights
- Collection Societies and how to get paid
- The use of Spotify and other digital music and entertainment providers
- Artificial Intelligence in Music
- Branding and other revenue streams

# Intellectual Property

## What does it mean?

- Trade marks
- Patents
- Copyright
- Designs
- Trade secrets



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# Music and copyright

## What is protected?

- Literary works
  - Song lyrics
  - Poems
  - Stories
- Musical works
- Dramatic works
  - Dance
  - Mime
- Sound recordings
- Films
  - Music videos



## Music and copyright

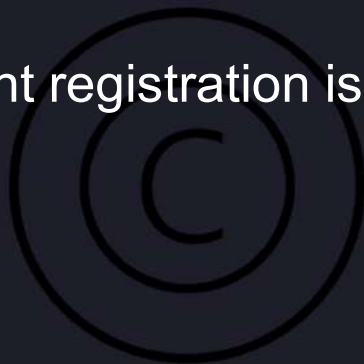
### What is *not* protected?

- Your band name
- Title of your song / album / music video
- Your “idea” for a new song / album / music video

# Music and copyright

## How do you protect it?

- **Cayman Islands:** copyright work protected **automatically** at the time the work is recorded, e.g.
  - in writing
  - in an audio or audiovisual format
- **USA:** copyright registration is required in order to gain full protection



# Music and copyright

## Who is the copyright owner?

- Song lyrics: songwriter
- Music: composer
- Sound recording: producer\*
- Film: producer\* and principal director

\*Producer = person by whom the arrangements necessary for the making of the sound recording / film are made



# Music and Copyright

## How long are you protected?

Type of Work	Duration
Song lyrics and musical compositions	70 years after the end of the year of the author's death
Sound and music recordings	70 years from the end of the year first published
Films	70 years from the end of the year in which the death occurs of the last to die of certain contributing persons



# Music and Copyright

## Where are you protected?

- Berne Convention for the Protection of Literary and Artistic Works
  - 181 countries
- Reciprocal rights



## Music and Copyright

### What are your rights as a copyright owner?

- make copies of the work;
- issue copies of the work to the public;
- to rent or lend the work to the public;
- to perform, show or play the work in public;
- to communicate the work to the public; and,
- to make an adaptation of the work or do any of the above in relation to an adaptation.

## Music and Copyright

### What are the exceptions to your rights?

- Making temporary copies of the work
- Making personal copies of the work for private use
- Fair dealing for the purpose of research or private study
- Fair dealing for criticism, review, quotation and news reporting
- Fair dealing with a work for the purposes of caricature, parody or pastiche
- Incidental inclusion
- Educational use or instruction
- Personal use by disabled persons

The background of the slide is a close-up, slightly blurred photograph of a musical score. It shows several staves with black musical notes and stems on a light-colored paper. The focus is on the middle staves, with the top and bottom ones being out of focus.

## Music and Copyright

### Sampling existing works

- Royalty free samples
- Pre-cleared tracks
- Acquire permission from copyright holders

## Moral Rights

### What are they?

- Right to be identified as author or director
- Right to object to derogatory treatment of work
- False attribution of work

# Performance Rights

## What are they?

- The rights of performers in their performances
- Definition of performer
- Property rights in performances:
  - ❖ Reproduction right
  - ❖ Distribution right
  - ❖ Rental and lending right
  - ❖ Make available right
- Non-property rights in performances
- Equitable remuneration
- Recording rights
- Moral rights for performers





# Cayman Marl Road

NEWSLETTER

Home CMR Daily Buzz Cayman's Youth Parliament Live Show COVID-19 Election 2021 Legal Notices Entertainment Lifestyle

## Caymanian musicians to receive royalties for local airplay

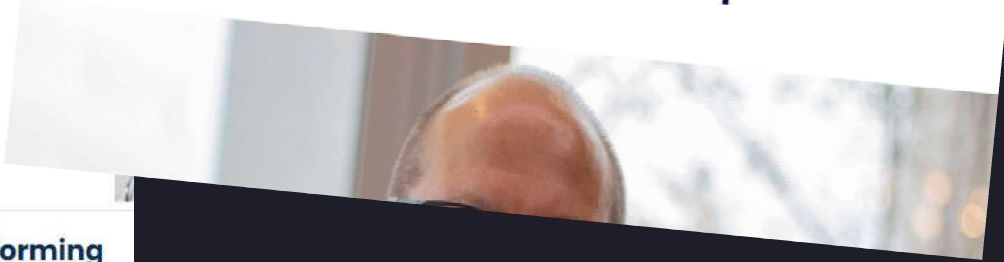
by Renae Stampf — November 04, 2022 in Entertainment

What we do Royalties Works Licences Help M Magazine

JACAP and PRS for Mu...

8 Dec 2022

## JACAP and PRS for Music strike Cayman Islands partnership



### Caymanian Times



86 F  
Clouds

Tuesday, Apr 04 2023, 02:33 PM

HIG SCHOLA  
5 APR

Community Notices Law Enforcement Government Hurricane Watch COVID - 19 Cayman Conversation



DEH Bulk Waste Collection Shift to May



Public Lands Comm Issues Camping Ru Guidelines

### OfReg meets with musicians to clarify position on performing rights royalties in the Cayman Islands

Local News

02 Dec, 2022

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Musicians and Intellectual Property

# Music and Copyright

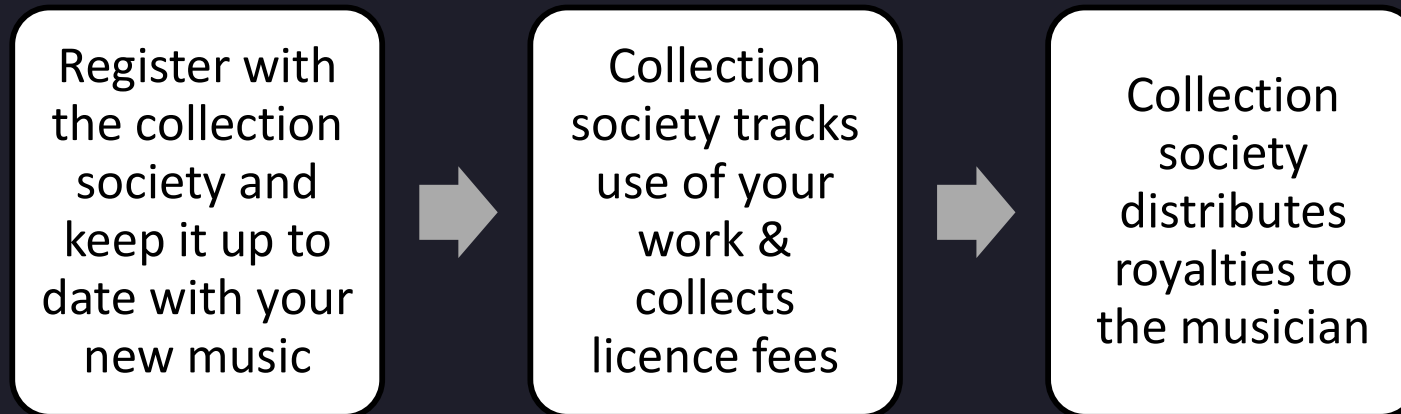
## How do you collect your royalties?

- Cayman Islands
- UK Collection Societies
  - Performing Right Society (**PRS**) - manages the rights of **songwriters, composers and publishers** for the **public performance** of music (e.g. broadcasts on TV or radio)
  - The Mechanical Copyright Protection Society (**MCPS**) – manages the rights of **songwriters, composers and publishers** when music is copied as physical products (e.g. CDs), or used in TV, film or radio (**synchronisation licences**)
  - Phonographic Performance Limited (**PPL**) – manages the rights of **record producers and rightsholders (record companies) and performers, musicians and singers** for the use of **recorded music**



# Music and copyright

## Collection societies: how they work



# Spotify & Other Digital Music Service Providers

## What does your licence cover?

- Available to users and creators across the Caribbean
- Personal, non-commercial use

Spotify

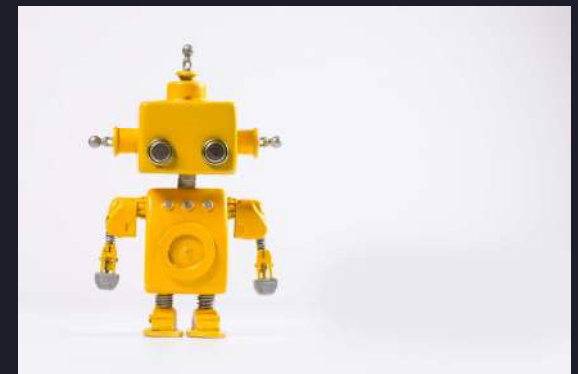


Musicians and Intellectual Property

# Artificial Intelligence (AI) in Music

## Who is the copyright owner?

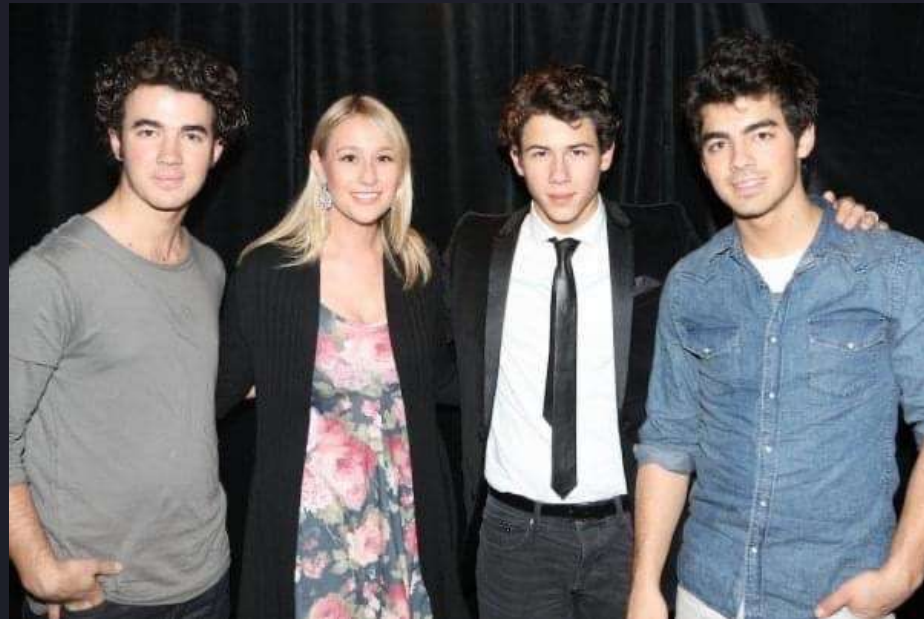
- AI is changing the way music is created and listened to
- AI in the Cayman Islands & UK
  - Protection for certain computer generated works
- AI in the EU
  - Original works – author's own intellectual creation
- AI in the USA
  - Human author is necessary for the creation of a copyright work



## Branding and other revenue streams

Do you need a trade mark?

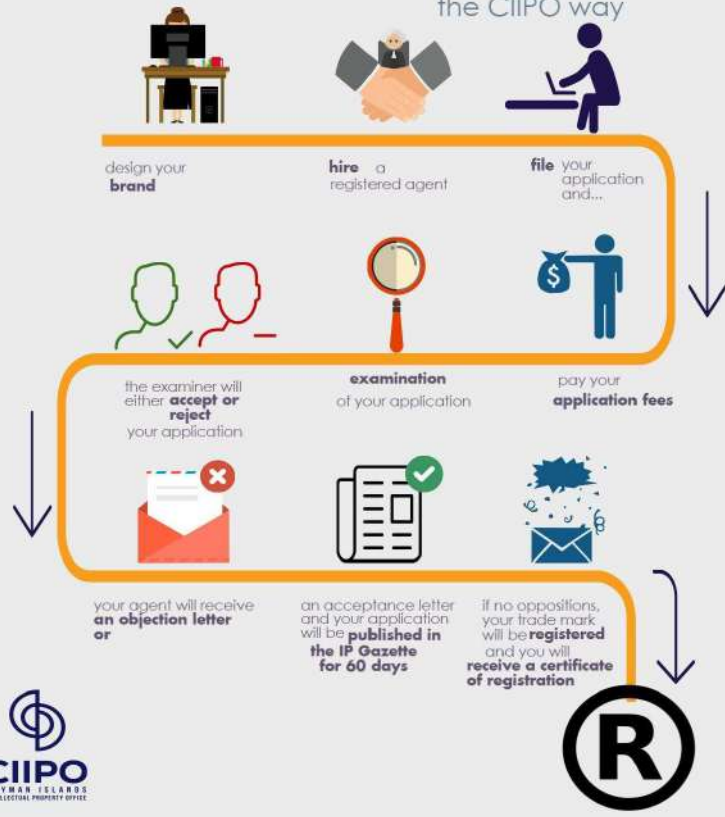
Jonas Brothers v Polyglot Entertainment [2010]





# TRADE MARK APPLICATION PROCESS

the CIPO way



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Questions?

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