

Taylor Swift, Apple Music & The Ever-Changing Ethics of IP

Shabbat Parshat Chukat 5775

Rabbi Dovid Zirkind

1. Ancient Origins of Patent Law:

Robert C. Kahl

“The first documented instance of the protection of an invention dates back to 500 B.C. The Greek writer Athenaeus (2nd Century AD) noted that in the ancient colony of Sybaris, a chef who created a new recipe was granted the exclusive right to carry it out for one year. Indeed the term *Monopoly*, the common reward for invention, derives from the Ancient Greek, meaning “to sell alone” and was first used by Aristotle in 347 B.C.E.”

2. The Statute of Anne

An act of the Parliament of Great Britain, 1710

Whereas Printers, Booksellers, and other Persons, have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the Encouragement of Learned Men to Compose and Write useful Books; May it please Your Majesty, that it may be Enacted ...

3. Droits Morals

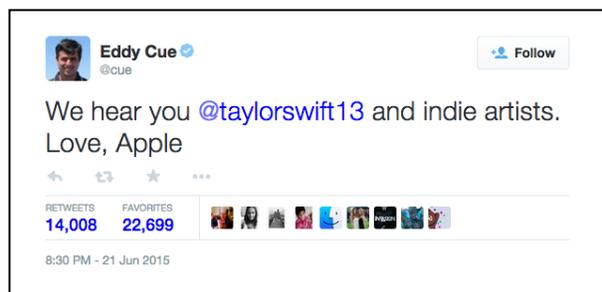
Berne Convention for the Protection of Literary and Artistic Works
Switzerland, 1886

*“Independent of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to **claim authorship** of the work and to **object to any distortion**, modification of, or other **derogatory action** in relation to the said work, which would be prejudicial to the author's honor or reputation.”*

4. To Apple, Love Taylor

....I’m sure you are aware that Apple Music will be offering a free 3 month trial to anyone who signs up for the service. I’m not sure you know that Apple Music will not be paying writers, producers, or artists for those three months. I find it to be shocking, disappointing, and completely unlike this historically progressive and generous company.

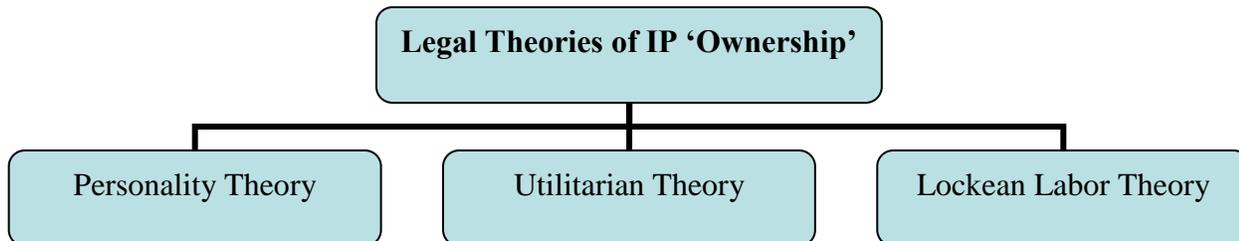
...Three months is a long time to go unpaid, and it is unfair to ask anyone to work for nothing. I say this with love, reverence, and admiration for everything else Apple has done. I hope that soon I can join them in the progression towards a streaming model that seems fair to those who create this music. I think this could be the platform that gets it



right.

....But I say to Apple with all due respect, it's not too late to change this policy and change the minds of those in the music industry who will be deeply and gravely affected by this. We don't ask you for free iPhones. Please don't ask us to provide you with our music for no compensation.

Taylor



5. Philosophy of Right, G.W.F. Hegel, 1821

“Thus those who have worked over the material a second time may regard as their own possession whatever money they may be able to extract from their work, and may contend that they have a right to reproduce it. In the transmission of the sciences in general, and especially in teaching positive science, church doctrine, or jurisprudence, are found the adoption and repetition of thoughts which are already established and expressed. This is largely the case with writings composed for the same purpose. It is not possible to state accurately, and establish explicitly by law and right, just how far the new form, which accrues through repeated expression, should transmute the scientific treasure or the thoughts of others, who are still in external possession, into a special mental possession of the person who re-constructs them; how far, in other words, a repetition of an author's work should be called a plagiarism. Hence plagiarism must be a question of honour, and should be refrained from on that score.”

