

A critical reflection of IPR: Copyright on TikTok.

Introduction.

Intellectual property (IP) refers to a creation that is legally protected, providing a creator with lawful ownership for rightful recognition or financial benefit. IP is primarily grouped into four main subcategories: copyright, patents, trade secrets and geographical designs (Sharan, et al, 2013: 214). The main focus of this critical reflection is copyright, this is the act of copying original work without permission from the creator (WIPO, 2016: 4). IP copyrights protect this work and allows the owner to take legal action against plagiarism or infringements. To date there have been copyright issues with online platforms using protected music on videos. One in particular, is the app TikTok, that allows users to be innovative with pre-existing materials.

What is TikTok?

TikTok is a social media app launched in 2018 by a Chinese company, ByteDance, the app allows users to create videos up to sixty seconds in length and share them globally (Akky, 2019) (Kennedy, 2020). Most TikTok trends include creators using music in the background of their videos as they lip sync, dance, act, draw etc. They are able to do this as TikTok has their own library of music for creators to use without risking instances of copywrite infringement. This is usually music from new and upcoming artists who want to gain exposure. TikTok states that they do not tolerate content that infringes copywrite and will terminate or suspend accounts if needed (TikTok.com, 2021). However, music right-holders believe that TikTok does not own the adequate licenses for the music in its library. Representatives have suggested that TikTok pays royalties for licenses, however, lawsuits have claimed that protected music was not purchased or given permission to use (FinancialTimes.com, 2020).

Copyright Infringement cases

Music companies, including Universal Music (an American global music corporation), have threatened to sue TikTok as the platform poses as a threat towards copyright laws. This is one of the world's largest music companies that include artists such as Lady Gaga, Taylor Swift, Billie Eilish and Elton John. When these songs are used in videos these artists do not get paid any royalties, which deters from IP rights. As a result, Universal has tried to negotiate deals with TikTok to enable users to use the protected music while guaranteeing the artists with financial benefits (FinancialTimes.com, 2020).

Another case is a company in Vietnam called VNG, they filed a lawsuit against TikTok to request the removal of all music segments taken from Zing records, as well as an indemnification for damages of over VND221 billion (£7 million approximately). They believe that this IP infringement caused damage to the company as an estimated total of 150 Zing records were used in more than 11 million videos despite the copyright laws in place. This was because TikTok did not have the sufficient licences to use the songs nor did they ask for permission from VNG. This also poses a question, to whether users are aware that their videos may contain songs copyrighted by music companies (Vietnamnet.vn, 2020). The Vietnam Musicians' Association stated that TikTok avoids having to comply with copyright regulations by offering a very complex business model. As a result, TikTok believed that they did not breach IP laws and refused to remove the songs on the platform. This can emphasise that the main purpose of IP is to encourage an economic incentive for innovation (Goldstein and Reese, 2008: 17). Therefore, it can be argued with the Public Property Rights theory that information belongs to the public and should be allowed to use for innovative purposes on platforms such as TikTok. This is further reinforced by Elkin-Koren and Salzberger (2013) who state that, "the public domain is a regime in which everyone is privileged to use any given resource, and no one is legally entitled to exclude others" (Elkin-Koren and Salzberger, 2013: npn). Therefore, it can be contended that this allows the emergence of remix culture which Lessig (2008) argues is a new way of working but IP laws are too strict. He believes that free movement is necessary for digital cultures. TikTok promotes this act of remix culture especially as "it is hard to restrict anyone from consuming [and using] it once it is available to all (Lessig, 2008: npn). For instance, parodies are based on pre-existing material and can be classed as freedom of speech. Although they may harm the reputation or

rights of others there is still a fine line between the acceptance of parodies and copyright (Ginsburg and Dreyfuss, 2014: 7). Not only this but as TikTok is a globally used app, there are different IP laws in each country and what is acceptable in terms of copyrights, thus, copyright violations can often be overlooked.

Measures that TikTok have put in place.

TikTok signed a licensing deal with National Music Publishers Association (NMPA) in the US, and independent corporations Believe and TuneCore (as a subsidiary) to combat unlicensed IP regulations. CEO David Israelite expressed how this, “benefits songwriters and publishers [by] offer[ing] them critical compensation for their work” (Musically.com, 2020). This is reinforced by the Natural Right’s theory, which expresses the importance of creators having the right to naturally own a physical artefact that he/she/they have created (Anderson, 2006: 113). Therefore, it can be suggested that IP is an appropriate law to protect someone’s labour and secure rightful ownership. However, in this case, TikTok digresses from a creator’s rights by allowing TikTokers to use, remix and share music in their videos on a global scale without appropriate IP laws in place. Although TikTok has recently signed these deals, it is still controversial to whether music is protected. TikTok has still been getting music for free in exchange for ‘publicity’, except artists such as Tiagz has expressed that everyone knows his music, yet no one knows him (ByteDance, 2019).

In addition, with the growth of blockchain technology, this may be a viable solution for TikTok. The company have pushed harder for blockchain and have already started to invest into this technology with other Chinese owned companies. This will add a level of security and protection against hackers and people who want to steal content. After a Chinese version of Google (Baidu) stole videos that were uploaded on TikTok, the producers, ByteDance used blockchain technology to prove copying by showing the data stored (Jia et al, 2018). This also means that any music used from the TikTok library in videos must stay on the app rather than creators reuploading this content to other platforms and places. This allows artists to know who is using their music giving a level of security. However, it is unknown whether users of this app are aware of this. For instance, many users have saved and uploaded the videos to other platforms including

Facebook, YouTube and Twitter. Therefore, goes against TikTok's regulations of reuploading videos with music to other platforms. On the other hand, it can be argued that once the videos are uploaded that they are in the public domain and as a result are allowed to be saved, edited and posted elsewhere. Whilst this has a profound impact on IP, blockchains can seek to grant users with privacy over their accounts and identities (Kshetri, 2017). This makes it easier to manage economic aspects on a global scale as influencers, artists and creators will be able to have rightful ownership over their creations while getting the financial benefit as well.

Also, it is worthy to note that recently TikTok have allowed verified accounts to use a new, royalty free 'Commercial Music Library' for promotional content, whereas non-verified accounts can still use popular music for free. This means that the verified accounts will not be paid for music that use protected music. However, this can be problematic for verified accounts as TikTok heavily relies on memes and trends, thus, would reduce visibility on the app for verified brands and influences (Hutchinson, 2020).

Conclusion

In conclusion, it is clear that the IP laws on TikTok are complex. It is unclear whether the music on TikTok is unlicensed, or if the videos should be classed as parodies, which are often regarded as exceptions to copyright infringements. However, as music content is often remixed, there is a violation of copyright present. Not only this, but the owners of the music are often not recognised for their work and IP rights have been undermined. This can also be problematic for users on the app who are unaware of the regulations. Users are encouraged to edit and rework videos without obtaining permission, which can lead to the individuals being fined by music companies or suspended by the app itself. However, as there has been a gradual improvement in copyright laws being addressed and agreements signed this can be regarded as a positive change. It is evident that more needs to be done in terms of IP on TikTok to ensure that owners of music are recognised and recompensed for their work. Blockchain technology seems to be a way forward in managing the music used on TikTok but also giving the creators and artists rightful security over music

and videos that are uploaded to the app. Ultimately, as this is a contemporary area of study more research can be conducted into this company and its IP laws in future work.

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