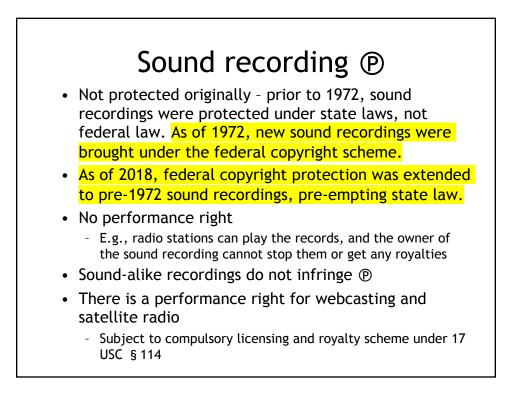


## Musical composition ©

- Performance right
  - Radio stations, satellite radio, webcasters, stadiums, stores, etc. get rights to play through blanket licenses with performance rights societies (ASCAP/BMI/SESAC)
  - ASCAP and BMI are subject to consent decrees for licensing rates
  - Blanket licenses
    - do not cover movies or movie theaters
  - Performing rights societies divvy up the money
- · Sound-alike recordings would infringe
  - But 17 U.S.C. § 115 gives you the right to get a compulsory license for non-dramatic musical works

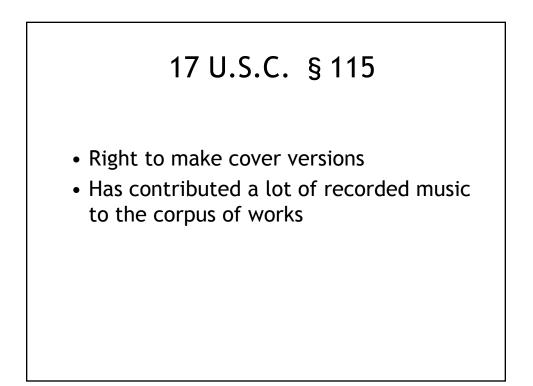




# Blanket performing-rightssociety license

- A license of the ©
- Grants the right to play music to the public
- Given to restaurants, sports arenas, television stations, radio stations
- But not movie theatres in U.S.
  - ASCAP v. Alden-Rochelle (1948) (antitrust laws prohibit requiring blanket licenses of theatres)





# 17 U.S.C. § 115

• "A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work ..."

#### Motola v. EMI America Records, Case No. 82-6308-PAR (CD. Cal. April 18, 1984)

Eddie Cochran's "Jeanie, Jeanie, Jeanie" (the original) Well Jeanie, Jeanie, Jeanie come and dance with me Well I teach you every dance from here and 'cross the sea Well now first we hop, yeah-yeah-yeah, then we bop Yeah-yeah-yeah, then we swap or rock 'n' roll We'll do the stroll ...

Stray Cats's "Jeanie, Jeanie"

Well, Jeanie, Jeanie, Jeanie come and dance with me Well, there's a real wild party and the booze is free

First we'll fuck

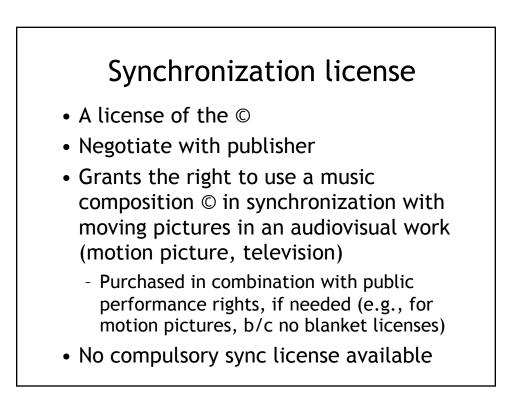
Yeah, yeah, yeah tough luck

Yeah, yeah, yeah then we'll rock

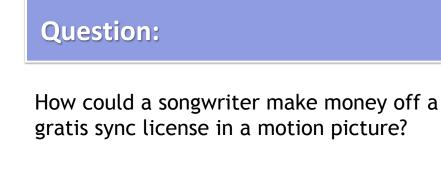
We'll rock and roll, well, do what you're told ...

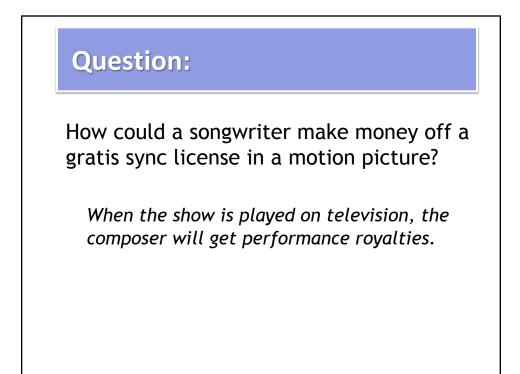
#### Motola v. EMI America Records, Case No. 82-6308-PAR (CD. Cal. April 18, 1984)

"Although the musical arrangements in this case are, by plaintiff's own admission, quite similar, the changes in the lyrics are substantial and clearly beyond the scope of the § 115(a)(2) privilege. Regardless of whether these changes are detrimental or beneficial with regard to the income produced by 'Jeannie, Jeannie, Jeannie,' the ultimate effect is to change radically the tenor and appeal of plaintiff's song. The references to 'wild parties' and 'free booze' and the insertion of obscenities into the lyrics must certainly have the effect of 'pervert[ing], distort[ing], and travesty [ing]' plaintiff's composition. Musicians and record companies should be required and Congress has determined that they are required, to obtain the consent of the copyright owner before making these kinds of changes in a protected work." - Judge Pamela A. Rymer



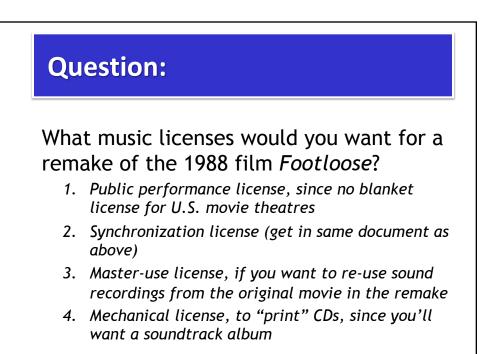


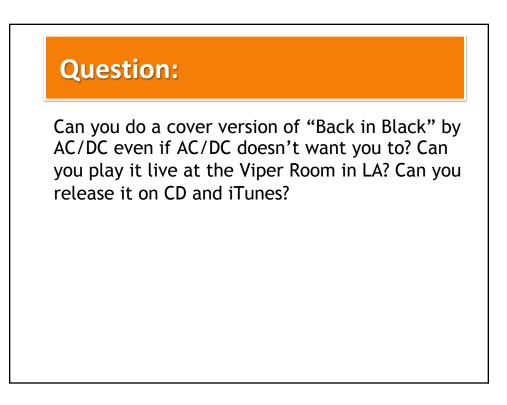




### **Question:**

What music licenses would you want for a remake of the 1988 film *Footloose*?





### **Question:**

Can you do a cover version of "Back in Black" by AC/DC even if AC/DC doesn't want you to? Can you play it live at the Viper Room in LA? Can you release it on CD and iTunes?

Yes!

Blanket licenses at performance venues allow you to play it live.

17 U.S.C. §115 allows you to record your cover version and sell it on CD and iTunes.

(But you won't be able to put it in a motion picture without the publisher's permission.)