



# Music Copyright

Expression  
Copyright

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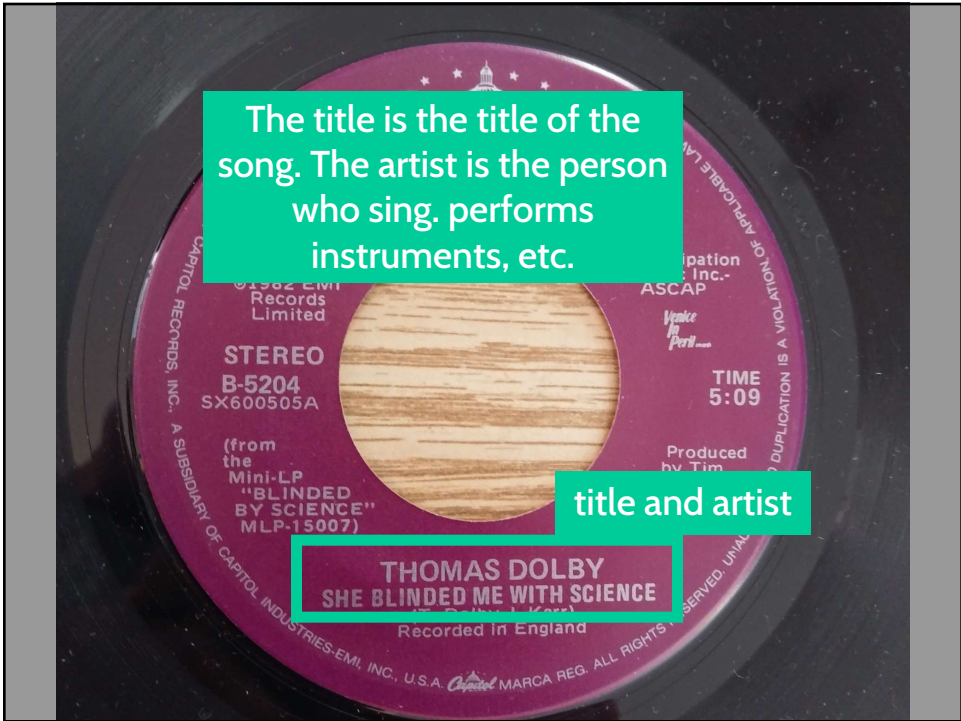
Konomark  
Most rights sharable

## Separate copyright interests:

- Soundrecording (P)
- Musical composition (C)

# Let's look at some records ...





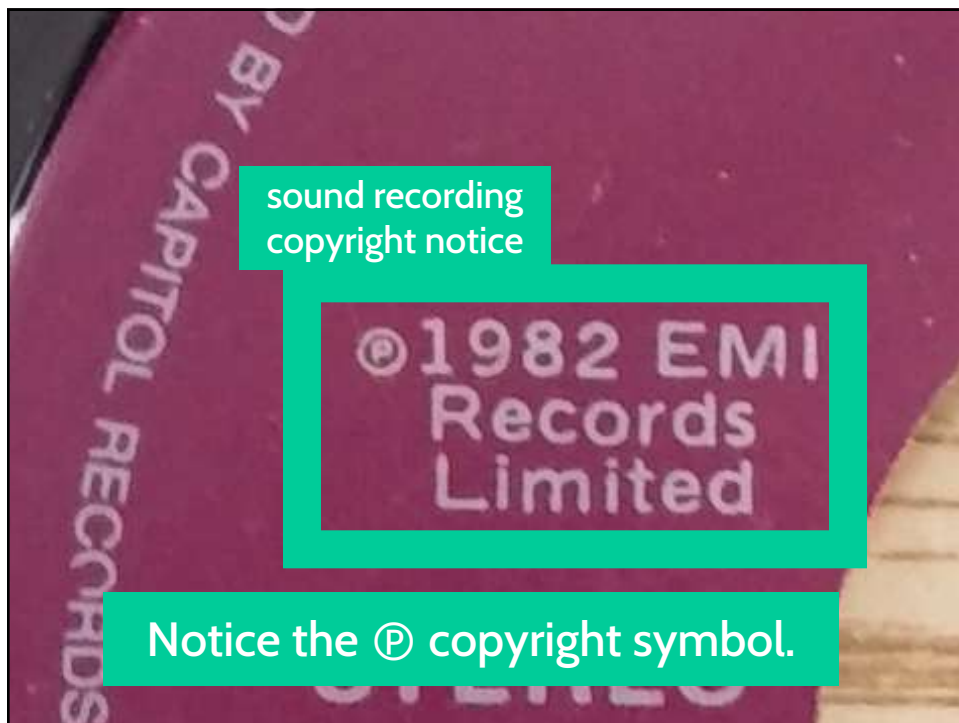
The title is the title of the song. The artist is the person who sing. performs instruments, etc.

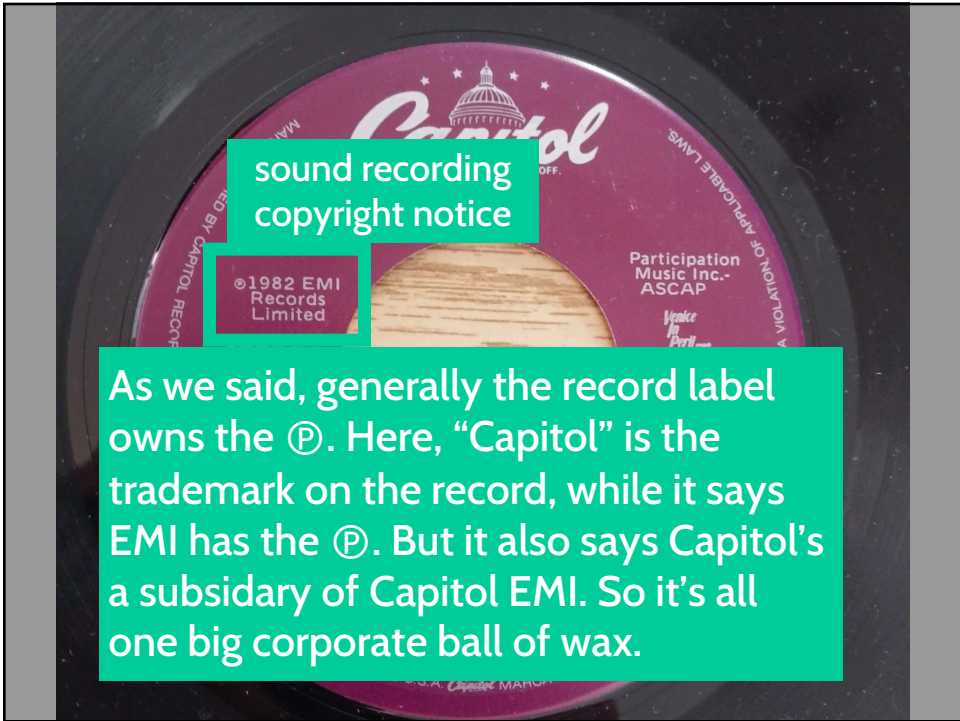
title and artist

THOMAS DOLBY  
SHE BLINDED ME WITH SCIENCE

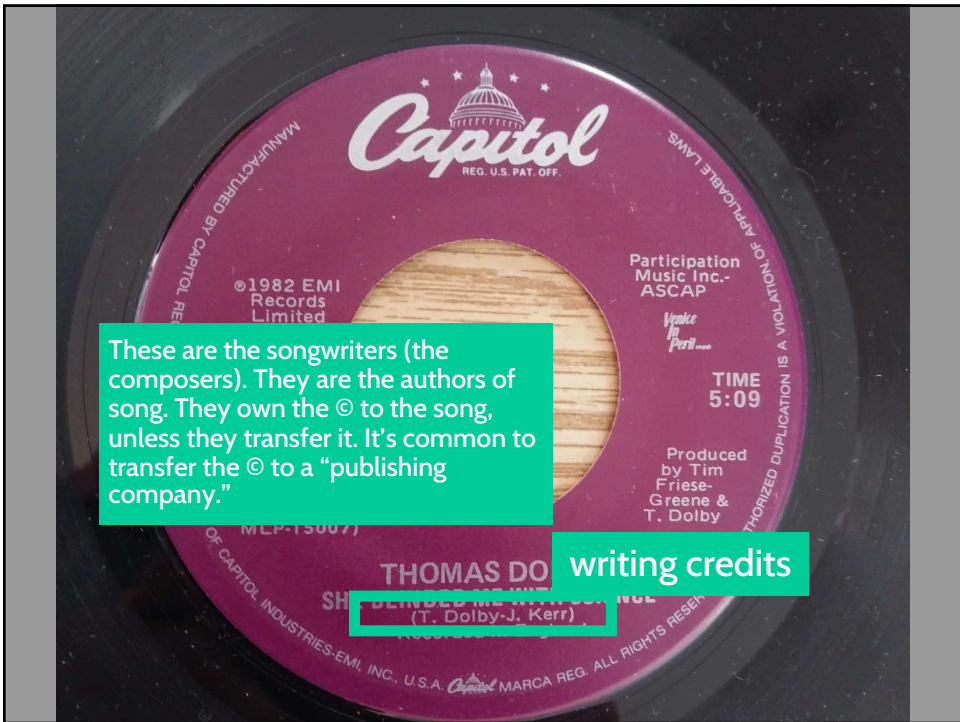


record's label



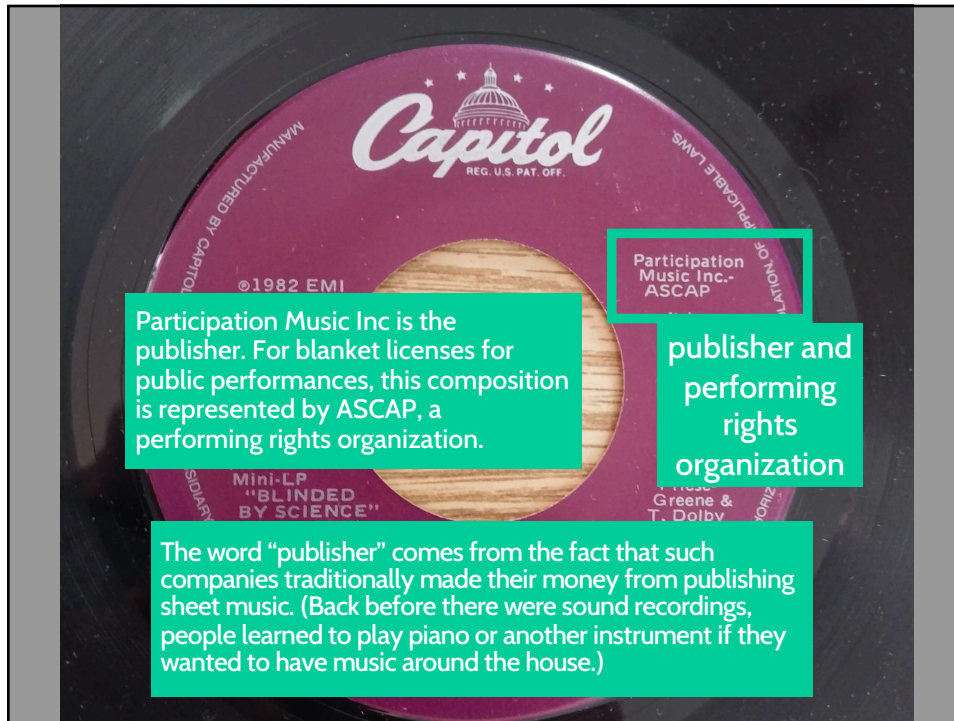


As we said, generally the record label owns the ©. Here, "Capitol" is the trademark on the record, while it says EMI has the ©. But it also says Capitol's a subsidiary of Capitol EMI. So it's all one big corporate ball of wax.



These are the songwriters (the composers). They are the authors of song. They own the © to the song, unless they transfer it. It's common to transfer the © to a "publishing company."

writing credits



**THOMAS DOLBY**

**SHE BLINDED ME WITH SCIENCE**

Words and Music by THOMAS DOLBY ROBERTSON and JONATHAN KERR

Rock Rock  
N.C.

It's po - et - ry in mo - sin. She heard her rou - der  
eyes - to me, as deep as an - y o - com,  
as sweet as an - y bar - mo - ry. Man, but she blind-ed me with

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**THOMAS DOLBY**

**SHE BLINDED ME WITH SCIENCE**

Words and Music by THOMAS DOLBY ROBERTSON  
and JONATHAN KERR

Funk Rock  
N.C.

writing credits

E7

It's po - et - ry in mo - tion. She turned her ten - der

**Capitol**  
REG. U.S. PAT. OFF.

©1982 EMI Records Limited

STEREO  
B-5204  
SX600505A

(from the Mini-LP "BLINDED BY SCIENCE" MLP-15007)

Participation Music Inc.-ASCAP

Voice  
Perf...

Produced by Tim Friese-Greene & T. Dolby

TIME 5:09

writing credits

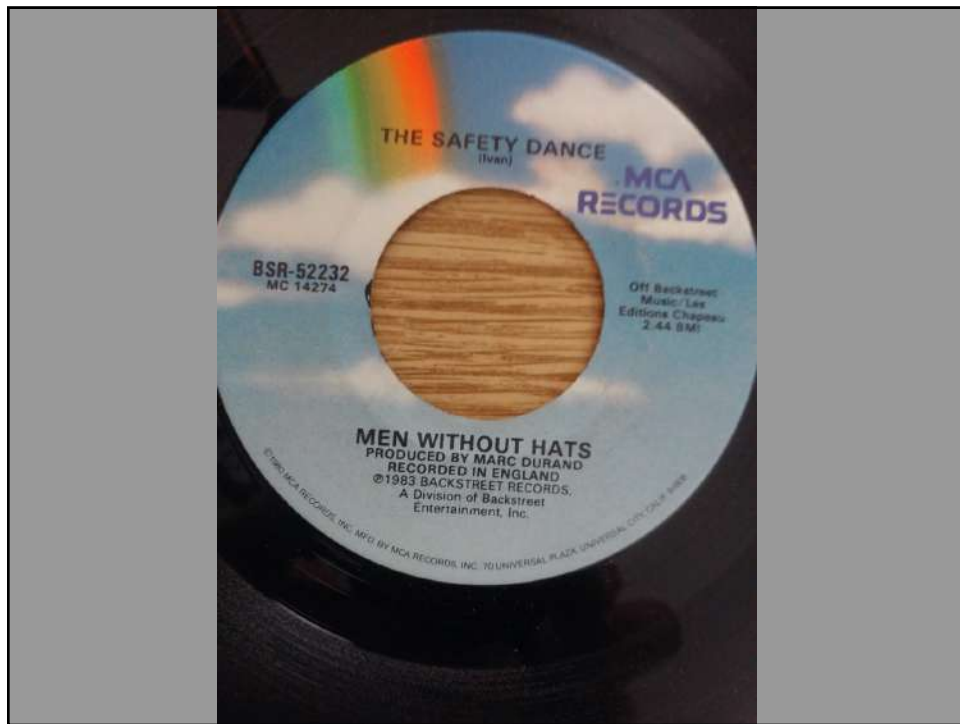
THOMAS DO  
SH...  
(T. Dolby-J. Kerr)

It's not clear why this is different than the publisher listed on the record label. (Although there are many plausible reasons.)

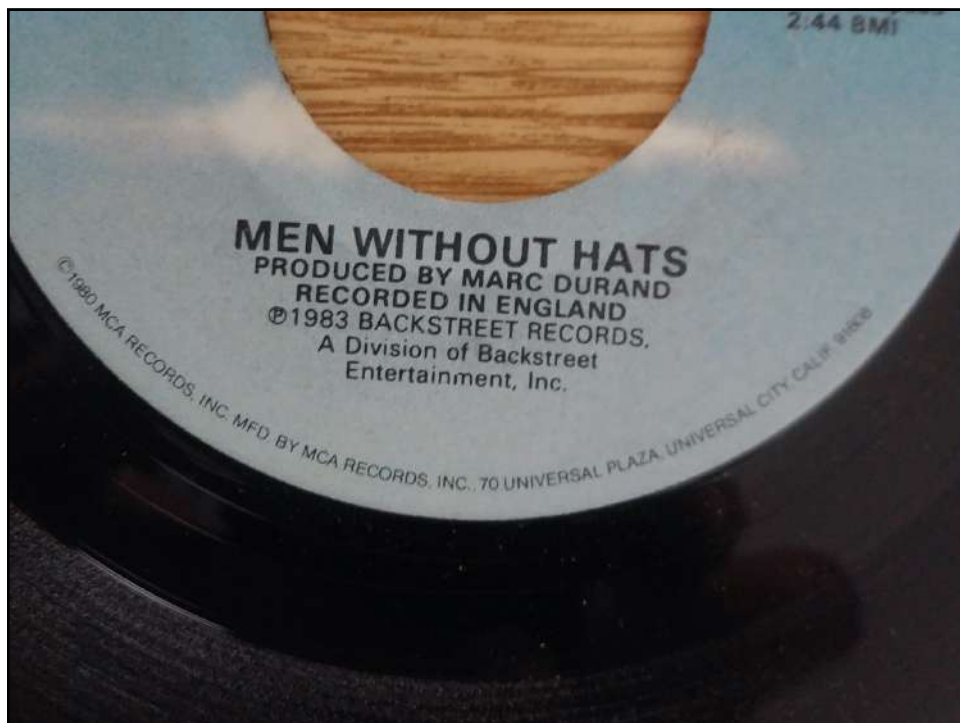
Mmm, but she blind-ed me with

copyright notice

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17 U.S.C. § 106

Subject to sections 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) to **reproduce** the copyrighted work in copies or phonorecords;
- (2) to **prepare derivative works** based upon the copyrighted work;
- (3) to **distribute** copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to **perform** the copyrighted work **publicly**;
- (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to **display** the copyrighted work **publicly**; and
- (6) in the case of sound recordings, to **perform** the copyrighted work **publicly by means of a digital audio transmission**.

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- (6) in the case of sound recordings, to **perform** the copyrighted work **publicly by means of a digital audio transmission**.

Reproduction, preparing derivative works, distribution—all of this is the same for compositions and sound recordings.

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- (6) in the case of sound recordings, to **perform** the copyrighted work **publicly by means of a digital audio transmission**.

For the public performance right, things are different:

- Compositions have the public performance right generally.
- Sound recordings only have it for digital audio transmission.



Beethoven's 9th Symphony, composed and first performed 1824



Released 1980 on Deutsche Grammophon label

If I play this recording over loudspeakers to 100,000 people in a stadium—and assuming I have no licenses at all—do I have any copyright infringement liability?



If I play this recording over loudspeakers to 100,000 people in a stadium—and assuming I have no licenses at all—do I have any copyright infringement liability?



**No.**  
I'm completely in the clear.  
*Why?*

If I play this recording over loudspeakers to 100,000 people in a stadium—and assuming I have no licenses at all—do I have any copyright infringement liability?



**No.**

I'm completely in the clear.

*Why?*

There's no composition ©, because coming from 1824, the composition is in the public domain.

And there's no public performance right for a sound recording © (except for digital audio transmission, which I didn't do).

## Musical composition ©

- Performance right
  - Radio stations, satellite radio, webcasters, stadiums, stores, etc. get rights to play through blanket licenses with performing 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

## Sound recording ©

- Not protected originally – prior to 1972, sound recordings were protected under state laws, not federal law. As of 1972, new sound recordings were brought under the federal copyright scheme.
- As of 2018, federal copyright protection was extended to pre-1972 sound recordings, pre-empting state law.
- No performance right
  - E.g., radio stations can play the records, and the owner of the sound recordings cannot stop them or get any royalties
- Sound-alike recordings do not infringe ©
- There is a performance right for webcasting and satellite radio (digital audio transmission)
  - Subject to compulsory licensing and royalty scheme under 17 USC § 114

## 17 U.S.C. § 115

- Right to make cover versions
- Has contributed a lot of recorded music to the corpus of works



## 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 ...”