

DIGITIZATION AND MUSIC COPYRIGHT REFORM IN TURKEY

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This article examines the intersection between the digitization of music distribution and the reform of the copyright regime in Turkey. Since an era of economic liberalization and trade agreements beginning in the 1980s, the Turkish state has sought to update its intellectual property laws and revamp enforcement, including of copyright as it applies in music. The rise of digital media has both helped accelerate and complicated this process. While some scholarly and lay rhetoric frames digital media as revolutionary and transformative, other scholars have highlighted continuities with longer-standing phenomena in the music industries.

This article contributes to this debate through three case studies. Drawing on ethnographic and textual sources, it analyzes several issues that have persisted from the earliest days of the Turkish state's efforts to overhaul the copyright system in the 1980s. These issues include the overall low licensing income that copyright organizations are able to collect, fraudulent or contested claims to the composition copyrights in folk music, and obstacles to licensing the re-release of albums originally released in older sound recording formats. Through these examples, the article traces threads of continuity between the pre-digital and digital era within the copyright system while also highlighting how the issues have been subtly transformed in the digital context. Ultimately, it argues that digital media act as what Latour calls mediators, which transform and modify the elements they are supposed to carry, including stubborn challenges with reforming and implementing copyright in the music industries.

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INTRODUCTION

Both scholarly and lay narratives often emphasize the transformative nature of digital media for the economics and distribution of music. Streaming platforms such as Spotify and Apple Music afford ever easier access to an enormous worldwide catalog of sound recordings, promising the potential to diversify listening habits.¹ The most optimistic discourse describes how platforms affording upload and discovery of user generated content, combined with the declining price of audio recording and production technologies, “democratize” the music industries by disrupting major labels’ traditional gatekeeping role.² Media and industry scholars have also theorized how streaming ushers in a shift from “creator to data” as the product monetized during music consumption³ and from consumer electronics to information technology as dominant forces in the music sector.⁴

Despite such well-deserved attention to the disruptive nature of digital technologies in the music industries, recent scholarly accounts have also reconsidered such changes in the larger context of (pre-digital) technological mediation, highlighting threads of continuity that run through these histories of change. Scholars have pointed out how the major transnational music companies have leveraged legal streaming platforms to recover from the declining profits of the early 2000s and to reassert their oligopolistic position in the recording industry, for example.⁵ Meanwhile, the tendency to optimize songs and recordings for streaming platforms can be understood as “platform effects” that resemble

¹ Pablo Bello and David Garcia, Cultural Divergence in Popular Music: The Increasing Diversity of Music Consumption on Spotify across Countries, 8 HUMANITIES AND SOCIAL SCIENCES COMMUNICATIONS 1 (2021); cf. Yngvar Kjus, Musical Exploration via Streaming Services: The Norwegian Experience, 14 POPULAR COMMUNICATION 127 (2016); Nick Seaver, Captivating Algorithms: Recommender Systems as Traps, 24 J. OF MATERIAL CULTURE 421 (2019).

² GREG KOT, RIPPED: HOW THE WIRED GENERATION REVOLUTIONIZED MUSIC (2009); cf. Thomas Hodgson, *Spotify and the Democratisation of Music*, 40 POPULAR MUSIC 1 (2021); David Hesmondhalgh, *Have Digital Communication Technologies Democratized the Media Industries?*, in MEDIA AND SOCIETY 101, (James Curran and David Hesmondhalgh, eds 2019) (Bloomsbury Academic, 2019).

³ Keith Negus, From Creator to Data: The Post-Record Music Industry and the Digital Conglomerates, 41 MEDIA, CULTURE & SOCIETY 367 (2019); see also Eric Drott, Music as a Technology of Surveillance, 12 JOURNAL OF THE SOCIETY FOR AMERICAN MUSIC 233 (2018).

⁴ David Hesmondhalgh and Leslie M. Meier, *What the Digitalisation of Music Tells Us about Capitalism, Culture and the Power of the Information Technology Sector*, 11 INFORMATION, COMMUNICATION & SOCIETY 1555 (2018); Leslie M. Meier & Vincent R. Manzerolle, *Rising Tides? Data Capture, Platform Accumulation, and New Monopolies in the Digital Music Economy*, 21 NEW MEDIA & SOC’Y 543 (2019).

⁵ David Arditi, iTake-Over: The Recording Industry in the Digital Era (2014); Hyojung Sun, *Digital Revolution Tamed: The Case of the Recording Industry* (2018).

how older technologies also transformed the sound or format of music.⁶ Media scholar David Hesmondhalgh has complicated a series of narratives about the negative effects of digital streaming by connecting them to longer-standing anxieties about mass culture.⁷

In this article I am similarly interested in how digitization can be viewed in terms of both transformation and continuity, but I focus particularly on the relationship of digital technology and music copyright in Turkey. Copyright represents an important aspect of the story of digital transformation, which has spawned new business models in the music industries and required statutory reforms for enforcing rights in the online environment. Streaming services' promise of access to a global music catalog has necessitated government and corporate actions either to internationalize licensing or to reassert national boundaries for digital markets.⁸

Turkey represents a rich case study of copyright policy in this environment. In Turkey's music industry, record deals were long unstandardized and often accomplished by verbal agreements, with no transparent system in place for generating ongoing royalty streams tied to record sales numbers. Neither were there any copyright collecting societies, which enforce rightsholders' performing rights by licensing the broadcast and performance of copyrighted music and distributing this income as royalties, prior to the mid-1980s. The late 1950s arrival of the 45 RPM format, which was cheaper and easier to produce than the 78 RPM format, had ushered in an era of rampant domestic record piracy (exacerbated by the emergence of the audiocassette format) that led multinational music companies to abandon the national market.⁹ The impetus for addressing the situation was a period of market liberalization that began in the 1980s, as the Turkish state sought to better integrate its economy with Europe's. This triggered a process I refer to here as intellectual property (IP) reform (since copyright was reformed alongside other areas of IP including patent and trademark).¹⁰ The copyright statute was revised several times to bring it into conformity with international treaties. An anti-piracy crackdown ensued on the market for

⁶ Jeremy Wade Morris, *Music Platforms and the Optimization of Culture*, 6 *SOCIAL MEDIA + SOCIETY* 1 (2020); cf. MARK KATZ, *CAPTURING SOUND: HOW TECHNOLOGY HAS CHANGED MUSIC* (2010).

⁷ David Hesmondhalgh, *Streaming's Effects on Music Culture: Old Anxieties and New Simplifications*, 16 *CULTURAL SOCIOLOGY* 3 (2022).

⁸ Simone Schroff and John Street, *The Politics of the Digital Single Market: Culture vs. Competition vs. Copyright*, 21 *INFORMATION, COMMUNICATION & SOCIETY* 1305 (2018); PETR SZCZEPANIK ET AL., EDS., *DIGITAL PERIPHERIES: THE ONLINE CIRCULATION OF AUDIOVISUAL CONTENT FROM THE SMALL MARKET PERSPECTIVE* (2020).

⁹ Barış Çakmur, *Music Industry in Turkey: An Assessment in the Context of Political Economy of Cultural Production* (2021) (Ph.D. dissertation, Ankara, Middle East Technical University):.

¹⁰ For an overview see Serpil Konrpa Karlıdağ, *Fikirlerimizin Sahibi Kim?: Türkiye'de Müzik Endüstrisinde Telif Hakları Politikaları* [Who Owns Our Thoughts?: The Politics of Copyright in Turkey's Music Industry] (2010).

informally produced or illegally copied recordings. The Turkish state developed domestic IP expertise by opening a national Patent Institute and sending jurists to Europe for training. Finally, rightsholders were empowered to found collecting societies and build a bureaucratic apparatus for licensing the use of copyrighted music and distributing royalties.

I have spent the past decade undertaking ethnographic research into actors' experience of this IP reform process in Turkey's music sector, both conducting formal interviews and interacting informally with many record and publishing company executives, copyright administrators, musicians, and legal experts, as I gathered data for my book *Copyright Consciousness: Musical Creativity and Intellectual Property in Turkey* (forthcoming on Wesleyan University Press).¹¹ I began my research in 2013, just as digital streaming platforms were transforming the distribution and consumption of recorded music. Digitization thus formed an important part of the context of these conversations. However, the most frequently recurring theme in my exchanges with these actors was the still-developing or—according to some perspectives—dysfunctional nature of the country's copyright infrastructure.

In analyzing such perspectives, my aim is not to make any normative claim about how the copyright system might best be reformed to accommodate digital media. My interests are rather ethnographic and historical in nature. In particular, I am concerned with what sociolegal scholars Lauren Edelman and Marc Galanter call “the constitutive dimension of law,” which “involves law as a set of symbols and forms that evoke and replicate meanings and understandings. Constitutive analyses generally study the role of law in everyday life including the ways in which legal categories and concepts structure social behavior, the way in which people understand the law and invoke it in their daily routines, and ways in which people mobilize or resist law.”¹² I highlight two such constitutive aspects of IP laws in particular. First, IP laws play a role in constituting relations between individuals and the social world in particular ways: through copyright law, the author is constituted as the subject of the “work,” the musical object they create and own. Second, for copyright stakeholders, the effectiveness of the emergent copyright regime reflects on the legitimacy of the state itself, and actors' experiences of the copyright system are therefore constitutive of the state-subject relationship. Digitization disrupts actors' established routines that are structured by the law, and it complicates their engagements with the music copyright system. So how do copyright stakeholders take on these challenges and opportunities and integrate them into their understandings of themselves as rights-bearing subjects of the state?

¹¹ Some of the examples presented in this article are also discussed in the book, though digitization is not a major focus of the book, and in that context the examples buttress a different set of arguments than the one I pursue here.

¹² Lauren Edelman and Marc Galanter, *Law: The Socio-Legal Perspective* in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES 604. (2015).

My approach is to place technological change in the context of Turkey's longer history of IP reform and to show how several ongoing issues that industry actors described in the digital context can also be read as manifesting older challenges in the copyright system generally. Digitization presented new problems and prompted debates over how to modify the copyright regime through statutory revisions or improved data management systems used at the collecting societies. However, my interlocutors who engaged in such discussions also seemed to view these proposals as part of the larger project of IP reform, and they often framed the issue as a matter of "catching up" to better-developed copyright infrastructures elsewhere. I argue that in Turkey, digital technologies have acted not just as what sociologist Bruno Latour calls intermediaries, which transport meaning or force without transforming it, but also as what he calls mediators, which "transform, translate, distort, and modify the meaning or the elements they are supposed to carry"¹³ – in this case the emergent copyright regime and actors' engagement with it. In part II, I offer further background information on digitization in Turkey's music sector. In the subsequent parts, I examine three issues in the digital realm that seemed to instantiate longer-standing aspects of the country's experience with copyright and IP reform while also transforming them in some way. In part III, I analyze the overall unsatisfactory income from rights licensing. In part IV, I discuss the long-standing issue of copyright fraud, especially in folk music, and how digital media have afforded new kinds of fraud. In part V, I examine how digital media have reproduced and transformed the obstacles to clearing the rights for re-releases of copyrighted recordings. In part VI, I consolidate these findings by highlighting the specific ways that digital technologies have both reproduced and altered the issues discussed in parts III, IV, and V. I tie these observations back to my larger argument that while digitization is a transformative force, actors implicated in Turkey's system also experience it as confirming longer-standing narratives about its dysfunctional or still-developing nature.

I. THE CONTEXT OF DIGITIZATION AND IP REFORM IN TURKEY'S MUSIC SECTOR

Turkey's population of about 85 million supports a rich and diverse music sector boasting a variety of local genres. The Turkish state has long supported Western art music, urban art music traditions now framed as Turkish classical music,¹⁴ and a range of traditional music practices framed as Turkish or Anatolian

¹³ BRUNO LATOUR, *REASSEMBLING THE SOCIAL: AN INTRODUCTION TO ACTOR-NETWORK-THEORY* (2005).

¹⁴ DENISE GILL, *MELANCHOLIC MODALITIES: AFFECT, ISLAM, AND TURKISH CLASSICAL MUSICIANS* (2017); JOHN MORGAN O'CONNELL, *ALATURKA: STYLE IN TURKISH MUSIC (1923–1938)* (2016).

folk music.¹⁵ While—especially from the 1930s to the 1990s—official broadcasts on state radio and television promoted these genres as part of a nation-building project, a private record industry has long produced and sold not only these, but also a variety of (mostly Turkish-language) popular musics. Some such musics represent localized versions of internationally widespread genres (hip hop or jazz), while others blend sounds popular in Europe, the Americas, or Arab majority countries with elements of indigenous musical traditions. In connection with the market liberalizations that began in the 1980s, the state relinquished its monopoly on broadcasting in the early 1990s, opening the way for the private media outlets that now feature a wide array of musical genres. Anti-piracy efforts and the free trade policies demanded by the 1995 Trade-related Aspects Intellectual Property Rights (TRIPs) agreement, along with Turkey's bid to join the European Union, also led to the re-entry of the international major music companies into the domestic market in the 1990s, though these have been as interested in producing music for the local market as they have been in promoting international music domestically.

State-sponsored institutions including the state broadcasting agency (Turkish Radio and Television or TRT), the Cultural Ministry, educational institutions, and municipal performing ensembles continue to promote the genres forged by the nation-building paradigm, but in the neoliberal context of post-1980s Turkey, many have been de-funded, and the state is more focused on an ostensibly identity-blind, consumer-driven approach to culture that supports the cultural industries in part through a renewed IP regime. Several organs of the state play key roles here. Parliament (The Grand National Assembly) passes relevant legislation, including the country's copyright statute (initially passed in 1951 and revised in 1983, 1995, 2001, and 2004). The Cultural Ministry's Copyright Directorate convenes discussions of current legal issues and statutory revisions, issues regulations on the structure and policies of copyright collecting societies, mediates licensing negotiations between collecting societies and commercial licensees of copyrighted music, and oversees anti-piracy enforcement.

As I discuss in further detail below, since 1986, the Cultural Ministry has played a key role by requiring record producers to purchase and affix banderoles (holographic anti-piracy seals) to CDs, cassettes, and vinyl recordings sold in the marketplace and maintaining a database of physical recordings and banderoles sold through this system. While some labels initially found ways to cheat the banderole system,¹⁶ my conversations with IP judges and collecting society and Cultural Ministry officials suggested that it had nonetheless proven successful in reigning in the piracy of physical recordings in the 2000s. Judicial bodies produce

¹⁵ ELIOT BATES, *DIGITAL TRADITION: ARRANGEMENT AND LABOR IN ISTANBUL'S RECORDING STUDIO CULTURE* (2016); Irene Judyth Markoff, *Musical Theory, Performance and the Contemporary Bağlama Specialist in Turkey* (1986) (Ph.D. dissertation, Seattle, University of Washington); MARTIN STOKES, *THE ARABESK DEBATE: MUSIC AND MUSICIANS IN MODERN TURKEY* (1992).

¹⁶ Çakmur, "Music Industry in Turkey," 267 ff.

jurisprudence and decide the outcome of criminal and civil court cases; these include several specialized intellectual property courts. However, copyright collecting societies are civil society organizations privately run by professional staff, boards of directors, and other officials elected from among the societies' membership.

Transnational relationships also play a key role for the state, private industry, and the collecting societies. As mentioned above, trade relationships, particularly with the EU, are key drivers for domestic IP policy, while treaties such as the Berne Convention for the Protection of Literary and Artistic Works or TRIPs set minimum standards for IP rights and enforcement. Multinational music companies are present in the domestic market as labels, publishers, and digital distributors. Finally, collecting societies maintain (sometimes fraught) relationships with those of other countries whose members' works are performed in Turkey or in whose territories the music of the Turkish societies' members may be performed. They also attend summits hosted by CISAC, the international federation of national collecting societies for musical authors, and they often revise their own policies and infrastructures in keeping with CISAC's recommendations. Yet this does not mean that domestic IP infrastructures are absorbed into a totalizing global IP system without any of the frictions¹⁷ that produce contingency and variability and afford diversely positioned actors agency to shape legal and policy outcomes.

Governments in a number of countries have updated copyright laws or introduced new legislation to adapt music licensing processes to digital media.¹⁸ During most of the period of my research in Turkey, legal authorities, copyright stakeholders, and representatives for commercial licensees of music were debating a revision to the country's copyright statute, which had last been updated in 2008. These negotiations failed, however, when parties with opposing interests who had been invited to offer their input—primarily representatives of copyright owners and industry associations representing commercial users of copyrighted content—failed to reach agreements on a number of points. The Cultural Ministry continues to host periodic workshops and conferences aimed at identifying ongoing issues in the IP system and debating possible approaches to resolving them.

¹⁷ ANNA LOWENHAUPT TSING, *FRICTION: AN ETHNOGRAPHY OF GLOBAL CONNECTION* (2005).

¹⁸ See generally BLAYNE HAGGART, *COPYRIGHT: THE GLOBAL POLITICS OF DIGITAL COPYRIGHT REFORM* (2014); Ian Hargreaves, "Digital Opportunity: A Review of Intellectual Property and Growth" (Independent Report), 2011); Anna S Huffman, *What the Music Modernization Act Missed, and Why Taylor Swift Has the Answer: Payments in Streaming Companies' Stock Should Be Dispersed Among All the Artists at the Label.*, 45 THE JOURNAL OF CORPORATION LAW 537 (2020); Yngvar Kjus, *License to Stream? A Study of How Rights-Holders Have Responded to Music Streaming Services in Norway*, 28 INTERNATIONAL JOURNAL OF CULTURAL POLICY 61 (2022); JESSICA LITMAN, *DIGITAL COPYRIGHT* (2006).

The transition to digital media for distributing music has affected the Turkish music sector in many of the same ways that it has in other countries' industries. A recent article in *Müzik Analiz*, the Turkish recording industry's trade magazine, reviews trends in sales of various recorded music formats in Turkey from 2000 to 2020, for example.¹⁹ These trends tracked generally with what has happened in the recording industry globally. Sales of physical formats such as the CD steadily declined after 2004 (except for the emerging niche market in vinyl since about 2010). While 2004 is slightly later than, for example, the United States' peak of physical sales in 1999,²⁰ this may reflect the widespread adoption of broadband internet in Turkey in 2004-2005, which afforded the same unauthorized peer-to-peer file sharing that had led to declining physical sales elsewhere.²¹ Banderole sales represent an important statistic for measuring such trends in physical sales. The numbers of banderoles purchased per year for both new and existing albums have decreased significantly since 2015, as has the number of record companies purchasing banderoles, suggesting that many musicians and producers are increasingly opting for digital-only album releases.²²

Meanwhile income from digital streaming has grown exponentially since about 2013, offsetting much of the recording industry's revenue declines in physical media just as it has in many other countries.²³ Based on my experience interacting with record producers and musicians and visiting music stores in Turkey, there remains a modest market for CDs with high production values (such as those including extensive liner notes), and the format also serves a role as promotional material often handed out for free. While these trends in Turkey reflect how digital technologies have transformed the industry globally, one distinctively local factor has been hyperinflation, which peaked at about 85% in late 2022.²⁴ The price of monthly subscriptions for streaming services such as Spotify has not tracked with this rate of inflation, a dynamic that eats into the inflation-adjusted value of income from streaming.²⁵ Actors involved in IP reform in Turkey, including judges, legal scholars, collecting society and Cultural Ministry officials, and industry stakeholders, attend carefully to legal developments overseas and often debate what statutory revisions, policies, and approaches to rights management might best accommodate the changes wrought by digitization.

¹⁹ Aslı Devrim Uğurlu Yılmaz, *Türkiye Müzik Endüstrisinin Son Yirmi Yılı* [The Last Twenty Years of Turkey's Music Industry], 2 MÜZİK ANALİZ 3 (2021).

²⁰ *U.S. Music Revenue Database*, RIAA, <https://www.riaa.com/u-s-sales-database/> (last visited May 18, 2025).

²¹ Karlıdağ, *Fikirlerimizin Sahibi Kim?*, 195-97.

²² Karlıdağ, *Fikirlerimizin Sahibi Kim*, *supra* note 21 at 195-97.

²³ Uğurlu Yılmaz, "Türkiye Müzik Endüstrisinin Son Yirmi Yılı," 8-9.

²⁴ *Turkey's inflation hits 24-year high of 85.5% after rate cuts*, Reuters (Nov. 3, 2022), <https://www.reuters.com/markets/asia/turkeys-inflation-hits-24-year-high-855-after-rate-cuts-2022-11-03/>.

²⁵ Ahmet Asena, *2022 Nasıl Geçecek?*, 6 MÜZİK ANALİZ 3 (2002).

Research on digitization in Turkey's music sector offers another perspective on these processes. A recent, Cultural Ministry-sponsored study of the topic reported that record producers supported the adoption of digital platforms; that rights holders were widely present in the digital environment; that young musicians in particular possessed a high level of knowledge about independent production as afforded by digital media; and that listeners in Turkey had broadly adopted digital platforms, among other conclusions.²⁶ On the other hand, the researchers also found that young musicians often lacked knowledge of copyright; that many rights holders were uninformed about streaming platforms' business models; that a subset of actors in the industry failed to comprehend the potential that streaming platforms presented; and that streaming platforms' recommendation algorithms and edited playlists had the effect of exaggerating the popularity of some artists, making it more difficult for local musicians to break through.²⁷ Many of these findings reflect trends likely present in other countries.

Turkish legal experts and copyright administrators pay special attention to developments in the EU. For example, an article in *Vizyon*, a trade magazine published by MESAM, the larger of the country's two copyright collecting societies for musical authors, recently outlined the stakes of the EU's Digital Single Market Directive, summarizing the debates surrounding it. Highlighting one way that approaches to IP continue to vary from country to country, the article contrasted how the Directive placed the liability for online copyright infringement on platforms with the Turkish statute's own requirement (dating from 2004) that rightsholders report infringements to platforms and request takedowns within three days.²⁸ Based on my conversations with a variety of actors in IP reform, it is clear that policymakers in Turkey strive to harmonize national policy with the EU's approaches to copyright even though Turkey's accession negotiations with the EU have long since stalled.

Having provided this general context for the process of digitization in Turkey's music sector, I turn now to my analyses of specific issues that industry actors described.

II. ISSUE 1: OVERALL LICENSING INCOME

The first issue I will examine is the overall income that Turkey's copyright collecting societies are able to bring in and distribute. Most of my interlocutors were dissatisfied with progress in this area, and they viewed it as a long-standing issue. As with the other issues I analyze here, digitization had transformed the challenge of growing licensing income. Given the low royalty rates for digital

²⁶ MUTLU BINARK ET AL., TÜRKİYE'DEKİ MÜZİK ENDÜSTRİSİNDE DİJİTAL DÖNÜŞÜM KÜLTÜREL ÜRETİCİLER VE PLATFORMLAŞMA RAPORU (2022): 30.

²⁷ *Id.* at 31.

²⁸ Gülcan Tutkun, Pelin Tunçer, and Gizemsu Kiracı, *Dijital Tek Pazarda Telif Haklarına İlişkin Yönerge'nin Getirdikleri* [What the Digital Single Market Copyright Directive Has Brought] in *VİZYON*, 2019.

streams but the new possibilities digital technologies afforded for improving the tracking of performances of copyrighted works, digitization compounded the issue of low licensing income even as it promised new solutions. Here I will discuss this issue particularly as it pertains to collecting societies for musical authors (composers, lyricists, arrangers, and publishers as opposed to rightsholders for related rights in sound recordings and the performances they capture). Turkey features two such societies for musical authors: MESAM and MSG.

Rightsholders all over the world have complained about the low royalty payouts generated by music streaming services.²⁹ While overall recording industry income has seen recent growth from streaming, the share going to songwriters and publishers is less than remuneration for labels and performers,³⁰ and in our conversations, Turkish industry executives did point out that this was a challenge for the industry globally.³¹ In this sense, it is perhaps unremarkable that Turkish rightsholders often complained of low copyright-related income in the streaming era. But in Turkey, the meager streaming royalties compound a longer standing issue, since the country also seemed to fail to reach its potential in licensing income relative even to the standards of other places where musicians may also voice dissatisfaction.

Data from CISAC provides some comparative context that highlights the challenge that faces Turkish rightsholders. CISAC's Global Collections Report, published online each year, offers a ranking of national collecting societies by gross annual income. At only 21.7 million Euros collected in 2022, the last year of my research, Turkey ranked 33rd despite having the 18th largest population in the world.³² In CISAC's rankings by collections as a percentage of gross domestic product, Turkey ranked 46th, and in the ranking by collections per capita, it falls out of the top 50 and off the chart. In our conversations, industry executives often cited such data to me as they stressed the point that the domestic music sector was failing to live up to its potential in terms of copyright-related income. The

²⁹ Frances Lewis, *Slipping Through the Cracks: How Digital Music Streaming Cuts Corners on Artists' Royalty Revenues Globally*, 43 BROOKLYN J. OF INT'L L 297 (2017); Lee Marshall, "'Let's Keep Music Special. F—Spotify': On-Demand Streaming and the Controversy over Artist Royalties," 8 CREATIVE INDUSTRIES J. 177 (2015).

³⁰ "CISAC Annual Report 2023" (CISAC, 2023): 2 and 13; David Hesmondhalgh et al., *Music Creators' Earnings in the Digital Era*, Intel. Prop. Off. 11, (2021) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4089749

³¹ Hesmondhalgh et al, *supra* note 30. However, place the complaints of low income for music creators and performers in the streaming environment in the larger context of low remuneration for musicians historically, even prior to digitization; see Hesmondhalgh et al, "Music Creators' Earnings in the Digital Era," 23 ff.

³² See CISAC, "2022 Global Collections Report," <https://www.cisac.org/Newsroom/global-collections/global-collections-report-2022>, accessed 11/18/22. In the 2024 report, Turkey had seen 5% growth in collections but had dropped to 39th in the rankings; see <https://www.cisac.org/global-collections-report-2024>, accessed 11/6/24.

situation hits MESAM and MSG members in their pocketbooks, and they often pointed out to me their dissatisfaction with their royalty checks. One recording artist who was a member of both MESAM and the French society SACEM (whom he authorized to collect his overseas royalties) sent me his respective distribution reports from the two societies, which revealed a significantly more substantial royalty check from SACEM than from MESAM despite the strong likelihood that his works were performed far more in Turkey than elsewhere.³³

There were several reasons that industry executives and copyright officials cited as to why licensing income remained low in the country. One reason was the challenges that collecting societies faced in negotiating with public commercial spaces to license music that they play to draw in or entertain patrons. When a cover band performs at a bar, or a clothing store or hotel plays background music over its speakers, these businesses are legally obligated to purchase a license for this public performance of copyrighted music. The collecting societies may send lawyers to places of business to educate them on the need to license these uses of copyrighted music, and IP experts and copyright administrators alike often frame these efforts as addressing an underdeveloped “copyright consciousness” or “copyright awareness” (*telif bilinci*) in the country.

Business owners often resist these efforts, sometimes finding it difficult to fathom why playing a radio or television in their shop requires purchasing such licenses. For example, news outlets described how small business owners in Antalya protested a “raid” by a lawyer representing MÜ-YAP and MÜYORBİR, the collecting societies for record producers and recording artists, respectively. The lawyer showed up at barber shops and other businesses around the city with police and camera equipment in tow, threatening court action over the use of television and radio in their shops.³⁴ Objecting to the shock of being subjected to such a police action, the barbers argued that licensing should be negotiated through their industry association, an approach the societies have often tried with mixed success.³⁵ In my conversations with them on this topic, industry executives identified one of their main challenges as judicial reluctance to enforce the often stiff penalties for unlicensed public performance that the copyright statute allows.

³³ The SACEM report he sent me, however, did not provide details regarding the number of streams and public performances, so I was unable to compare these to the MESAM numbers.

³⁴ Aysel Alp, *Müzik Dinleyen Esnafa Denetim Şoku - Son Dakika Haberler*, HURRIYET, March 14, 2013, <https://www.hurriyet.com.tr/ekonomi/muzik-dinleyen-esnafa-denetim-soku-22810993>.

³⁵ One example of a success is a recent deal struck between all the collecting societies and the hospitality industry association according to which about 21,000 hotels would be licensed (<https://www.gazeteduvar.com.tr/oteller-muzik-yayini-icin-telif-odeyecek-haber-1625426>), accessed 7/14/2023. Transcripts from other meetings between the societies and the professional organizations for licensees evince the latter’s often staunch resistance, however; e.g. *İşyerleri için Müzik Eserlerinde Telif Hakkı Uygulamaları: Panel, 28.10.2004 [Implementations of Copyright in Musical Works for Workplaces: Panel, 10/28/2004]*. İstanbul: İstanbul Ticaret Odası, 2004.

They also described lawsuits as moving slowly, stretching on for years. Finally, lack of coordination between the two competing societies for musical authors, MESAM and MSG, also complicated the licensing of such venues, which have to purchase licenses to cover the repertoire controlled by each society. Collecting society officials and industry executives often opined that the loss of potential income from such public performance licensing was particularly costly because, despite a dearth of solid data, it seemed likely that these businesses were playing an even higher proportion of domestic to international repertoire than that broadcast, streamed, or sold in physical formats, meaning that even more of this licensing income could be kept in the country and shared among rightsholders in Turkey rather than sent to rightsholders abroad.

The societies have attempted to resolve some of these issues from time to time; when I began my research MESAM, MSG, MÜYAP, and MÜYORBİR were operating jointly under a common licensing protocol to better coordinate their efforts, but this alliance later failed. The situation may have hit rock bottom in 2021, when CISAC expelled MESAM and MSG from its ranks “follow[ing] longstanding conflicts and breaches of the Confederation’s professional rules that caused operational inefficiencies and low royalties for creators.”³⁶ The societies, whose leadership was normally elected from among the membership, were placed under interim management appointed by the Cultural Ministry. As of summer 2022, the societies had new elected leadership which boasted of renewed efforts to collaborate, and they had been readmitted to CISAC. MESAM has also developed new collective management software that is meant to improve the accuracy and efficiency of rights management in part by automating the creation of database records that once had to be manually inputted,³⁷ and MSG and MESAM are now sharing the same database. Such automation afforded by new digital technology promises to greatly improve the tracking of performing rights and distribution of royalties, though it presents its own challenges. The US collecting society ASCAP, for example, has boasted that its new Audio Performance Management (APM) platform “is capable of matching six times more performances per hour than [its] previous system” and that it “helped identify 30 times more streaming works than the previous year, resulting in nine times more ASCAP writers getting paid for streaming music.”³⁸ Such statements hint at the fact that the more data points it is possible to track, the more processing power and the more advanced audio recognition and data-matching technology is necessary to handle the quickly increasing amount of input. Thus ASCAP continues to rely on survey sampling in order to estimate performances of works

³⁶ *Good news for societies and creators in Turkey as CMOs achieve new collaboration*, CISAC (Apr. 27, 2022), <https://www.cisac.org/Newsroom/articles/good-news-societies-and-creators-turkey-cmos-achieve-new-collaboration>.

³⁷ Musa Madendere, Selçuk Kural, and Ali Haydar Yıldız, *MESAM’da Dijital Dönüşüm [Digital Transformation at MESAM]*, VIZYON, 2020.

³⁸ *The ASCAP Surveys*, ASCAP, <https://www.ascap.com/help/royalties-and-payment/payment/surveys> (last visited May 18, 2025).

in some media, and there remains a threshold for the number of performances of a work below which remunerating rightsholders is not worth the administrative cost. As of 2022, MESAM, for its part, was still using analogy with broadcasting to estimate performances in many public spaces (shops, stores, hotels, etc), although they also use a service that can track streaming plays in such spaces.³⁹

In sum, the issue of overall low licensing income was perhaps the one that copyright stakeholders most often complained about during my research. They often blamed the state, since the expense and time of going to court, along with judicial reluctance to enforce harsh penalties for unlicensed public performances by businesses, could slow the progress of efforts to grow licensing income.⁴⁰ In my conversations with them, collecting society leadership also viewed the state as bowing to the demands of the powerful tourism and broadcasting industries, who resisted licensing. For example, Ali Rıza Binboğa, a rock artist given to fiery political rhetoric who served as president of MESAM during a key period of negotiations with broadcasters and tourism industry associations in the early 2000s, told me:

We are taking our copyright, in other words our rights, from the hands of dominant powers [egemen güçler]... [R]adio, television, and the tourism sector nourish the state. How? Tourism brings in income.... The lobbies of all these dominant powers, they put pressure on the state and the government. Because at the same time they control the voting base. They can quickly manipulate the people and guide them to their own views...

Yet other copyright stakeholders more often pointed the finger at mismanagement in the collecting societies and the general lack of awareness among rights holding musicians. In other words, some accounts chalked up the low licensing income to the incomplete nature of the process of transforming musicians into rights-holding subjects. As one musician, producer, and former collecting society board member put it,

copyright is a very [sensitive] topic. It needs educated composers and educated right[s]holders, and they have to understand what a civil organization is, what an association [i.e. collecting society] is... [I]t's not the officials. The officials, we cannot expect anything from the officials. We have to demand from them something.

³⁹ The 2024 CISAC Global Collections Report mentions that collections of licensing fees for live and background music grew 49%, “helped by economic recovery and the restructuring of joint-licensing efforts with regional authorities”; see “CISAC Global Collections Report 2024,” p 37. <https://www.cisac.org/global-collections-report-2024>, accessed 11/6/24.

⁴⁰ Compare Ryan Thomas Skinner, Artists, *Music Piracy, and the Crisis of Political Subjectivity in Contemporary Mali*, 85 ANTHROPOLOGICAL Q.723 (2012).

In many ways, therefore, the issue of low income appeared not as a new result of digitization, but as an old one that persisted in the digital era. On the other hand, digitization also afforded new tools that promised at least to streamline the tracking of public performance and distribution of royalties, including automated databases and software that could track songs played in public commercial spaces.

III. ISSUE 2: FOLK MUSIC AND COPYRIGHT FRAUD

I turn now to the second issue I will analyze: contested claims to the composition rights in folk songs and tunes. While (allegedly) fraudulent claims to the copyrights in folk songs predate the era of digitization in Turkey, I will show how the digital context reproduces the issue in a transformed way. Specifically, I will argue that digitization has expanded the media ecology in which the music circulates, affording questionable copyright claims by farther flung actors than those involved in the pre-digital examples.

Folk music (*halk müziği*) in fact consists of a variety of mostly rural, regional practices that folk music collectors, broadcast programming, and academic folklore had consolidated into a coherent genre by the middle of the 20th century. The genre interests me both musically and because it presents special problems for implementing copyright, since, according to an idea common in Turkey, folk songs and tunes supposedly emerged from collective folkloric creative processes that rendered its authors anonymous. As discussed for example in Verdery and Humphrey's volume *Property in Question*,⁴¹ notions of IP often involve constructing subject-object relations in a particular way. The idea of the author underlying copyright laws constructs an authorial subject in terms of its relationship to the "work" that it has produced and rights to which it legally possesses. As other scholars have pointed out, this possessive individualist approach to cultural products has a specific history in Western liberal thought, and implementing copyright in many contexts therefore involves transforming other understandings of the relationships between humans and music.⁴² The notion of folkloric anonymity, meanwhile, constructs a collective subject in terms of its relationship to the body of folk music heritage it "possesses" in a moral sense not affirmed by legal regimes (at least in Turkey to date). This sense of collective ownership of folk music has also granted the genre a romantic aura as heritage cultivated by the Turkish nation writ large. The discourse around applying copyright in folk music therefore not only focused on the mismatch between the canons of authorship assumed by copyright doctrine and the collective mode of creativity that purportedly produced folk music, but it was also charged with a moral valence. The public domain status of most folk songs and tunes left them

⁴¹ KATHERINE VERDERY AND CAROLINE HUMPHREY, *PROPERTY IN QUESTION: VALUE TRANSFORMATION IN THE GLOBAL ECONOMY* (2004).

⁴² James Leach, *Creativity, Subjectivity and the Dynamic of Possessive Individualism*, in *CREATIVITY AND CULTURAL IMPROVISATION*, Elizabeth Hallam and Tim Ingold, ed. (2007), 99–116.

vulnerable to appropriations that could seem all the more objectionable for the genre's quasi-sacred status as national heritage that contributed to Turkish citizens' sense of who they were.

During my research I spoke with many folk music artists and scholars, and while they described a number of challenges with applying copyright in the genre, the most frequently recurring issue they cited were the many examples of individuals claiming individual ownership over folk songs that most people viewed as anonymous and rightly in the public domain, or in some cases, songs that belonged to rural musicians unaware of or disinterested in the workings of the copyright system. The situation was distressing for enthusiasts of folk music, who saw the genre as a collective heritage that should not be unduly exploited for individual profit. The issue of fraudulent or allegedly fraudulent claims to anonymous folk music dated to the earliest days of MESAM, the older and larger of the two collecting societies for musical authors, in the mid 1980s. Through MESAM's database, some recording artists allegedly claimed authorship of folk songs that they had performed, even where evidence suggested that they had not composed the songs. The most common scenario is that a folk or popular music artist records the folk song and claims an authorship credit when registering the metadata for the songs on the recording with MESAM or MSG. A counterclaim might never be filed, or it might be filed by someone else who claims authorship of the song or by another artist who wishes to record it but does not think they should have to acquire an authorization from the artist who initially claimed it.

Another recurring scenario involved the heirs of the estates of deceased *aşiks*—singer-poets participating in a minstrel tradition with centuries of history in Anatolia and usually considered a sub-genre of folk music—who earn royalties from the songs composed by their testators. However, as part of the tradition, *aşiks* also perform the songs of prior masters of the craft (called *usta malı*), often recording them. Sometimes the heirs were known to claim the rights not only in their testator's original songs but also in the *usta malı* they performed. While MESAM and MSG both feature “technical expertise committees” that review challenges to such rights claims, the copyright statute requires that they provisionally accept all rights claims, assuming they are valid and placing the burden of proof on those who wish to contest such initial claims. This makes it easy to stake an authorship claim to the composition rights in a folk song at least until someone else challenges it. Where MESAM's and MSG's expertise committees are unable to resolve such conflicts over authorship claims, they may be sorted out in court, but the relatively close interpersonal relationships among musicians in the industry also play a key role. During my interview with then-MESAM president and iconic folk music recording artist Arif Sağ, he told me he sometimes personally intervened in such cases, in one example leveraging his relationship with the family of a famous *aşık* to get them to relinquish a number of authorship claims over *usta malı* songs the *aşık* had performed.

Streaming platforms likewise have created opportunities for fraudulent claims to the rights in Turkey's folk music. As I will show, these forms of alleged

fraud are in some ways novel, particularly because streaming platforms make it possible for actors distantly related to Turkey's folk music scene to stake questionable copyright claims. At the same time, for some actors these new forms of apparent fraud nonetheless seemed to resonate with the longer history of folk song theft. Stakeholders and researchers in the music industries have described how streaming services are susceptible to several kinds of copyright fraud. Perhaps the most commonly discussed sort of streaming fraud involves the use of bots to automatically generate clicks for playlists of (sometimes fake) audio recordings.⁴³ During my research, I encountered another sort of alleged copyright fraud that streaming afforded, one announced in October 2020 in the newspaper *Hürriyet*.⁴⁴ The story featured the late owner of the prominent independent label Kalan Records, Hasan Saltık, who leveled an accusation against the multinational major music corporation Universal Music Publishing Group (UMPG). According to the allegation, UMPG was capitalizing on a feature of YouTube's system for affording rights claims over music featured in its videos.

The rights to a song (so-called composition or publishing rights) may be shared among multiple parties: a lyricist, a composer, an arranger, and a publisher, for example—and sometimes licensed by different agents in different territories. Because of this situation, YouTube allows multiple parties to simultaneously claim these rights in a video featuring music, and the credits list the licensors of the clip. Furthermore, YouTube's system privileges the claims of media companies, including multinational majors like UMPG. Where content uploaded by ordinary users may be subject to copyright strike-downs if another user claims rights over the content, content posted or claimed by media companies is immune to such counterclaims and must be pursued through formal legal action.

According to the *Hürriyet* story, Kalan had noticed that somehow UMPG had claimed a share of the overseas royalties for videos posted to the label's official YouTube channel, even though the label had no contractual relationship with UMPG for publishing the music in any territory. UMPG relinquished its claims to these rights when Kalan challenged them, and they chalked the matter up to a software error. However, it is hard to know how much UMPG had collected in royalties during the period when their claims were in place (Saltık asserted that the claims had gone unnoticed for about 5 years). Kalan could only learn this information through a subpoena in the context of what promised to be an expensive and challenging international lawsuit that might not pay off. Furthermore, Kalan had only noticed the issue because YouTube lists the licensors for a given video on the web page for the video itself; if UMPG or someone else

⁴³ Christine Smith Burton, 'Playola' and Fraud on Digital Music Platforms: Why Legislative Action Is Required to Save the Music Streaming Market, 16 J. OF BUS. AND TECH.L. 387 (2021); Eric Drott, "Fake Streams, Listening Bots, and Click Farms: Counterfeiting Attention in the Streaming Music Economy," 38 AMER. MUSIC 153 (2020).

⁴⁴ İhsan Yılmaz, *Türkülere Kanca Atmışlar [They've Got Their Claws on Folk Songs]*, HURRIYET (Oct. 28, 2020), <https://www.hurriyet.com.tr/yazarlar/ih-san-yilmaz/turkulere-kanca-atmislar-41647721>.

were claiming a share on Spotify or Apple Music streams—services that do not similarly list rightsholders and licensors of a track—, there would be no way to know, especially because royalty rates for clicks vary constantly, making it impossible to infer from royalty distribution amounts whether some percentage had been siphoned off.

While the incident represented an instance of a new sort of alleged copyright fraud afforded by digital streaming platforms, there were several ways that it also resonated with longer-standing issues that have emerged from Turkey's decades-long IP reform process. Kalan specializes in various traditional musical forms from Turkey and its neighbors, including folk music. Many of the recordings over which UMPG had allegedly claimed a share were anonymous, public domain folk songs. As knowledgeable industry executives pointed out to me during my inquiries into the case, this meant that no author had standing to sue over the composition rights in these cases. The fact that the state had not acted to create a legal regime for policing uses of public domain music further facilitated UMPG's alleged claims to the rights in the public domain tracks, since neither did some organ of the state such as the Cultural Ministry hold legal standing to sue.⁴⁵ Meanwhile, in the accusations he leveled through the *Hürriyet* story, Saltık particularly emphasized the cases in which UMPG had claimed royalties from recordings of public domain songs, suggesting that his tactic was to appeal to the already widespread outrage at the much older history of individuals falsely claiming the rights in the national heritage of anonymous folk music: "...[I]t's clear that through such improprieties these international companies are violating the rights of our folk minstrels."⁴⁶ Finally, Saltık called explicitly on the musical authors' collecting societies, MESAM and MSG, to organize a class action lawsuit to re-claim the lost royalties on behalf of the affected rightsholders. Their failure to do so likely seemed familiar to the members of the collecting societies, who often saw them as ineffectual and incompetent. We can also read Saltık's emphasis on the exploitation of anonymous folk music heritage as an attempt to leverage public opinion to get the societies to act.

Like the case of overall low licensing income, the case of UMPG and Kalan illustrates how the digital context reproduces an older issue in a transformed way. The older cases of allegedly fraudulent claims to folk music involved actors with a more direct connection to the songs they claimed. Usually they were performers of the songs and members of the collecting society where they registered the work, and as I have described, the societies might be able to sort out such disputes among

⁴⁵ A further complication lay in the fact that folk music artists tend not to claim arranger's rights in their recordings of public domain folk songs, usually viewing these as mere performances and not arrangements. If there had been arranger credits attached to the public domain tracks, the arrangers would have had standing to sue.

⁴⁶ By referencing "folk minstrels" (*halk ozanları*), Saltık could also be referring to songs composed by known *aşıks* and under copyright, but based on the context, I take him to mean either those whose specific authors have been forgotten or who were written so long ago that they have entered the public domain.

their members. UMPG, by contrast, claimed a more distant role as a publisher or distributor of the works in question in foreign territories. The system of rights claiming set up by YouTube, designed to facilitate a huge and ever-proliferating body of user-generated content by policing copyright violations while deferring to the claims of major companies, also seems to have facilitated UMPG's alleged rights claims, whether or not they were due to "software error." In contrast to the situation of the 1980s and 90s, in which performers and the claimers of copyrights often knew each other personally or were at least fellow members of MESAM or MSG, and the royalties at stake largely involved domestic physical sales, data for which were relatively accessible and contestable through the societies or in court, the expanded media ecology of digital streaming platforms mutually implicated more distantly positioned actors and set the adjudication of rights into a more complex and expensive international legal context. Nonetheless, Saltık could tie the issue to longer-standing narratives about alleged theft and misuse of the heritage of folk music, exploiting resonances with the older history of false authorship claims in folk music to drum up public support to pressure the collecting societies to challenge the alleged copyright fraud.

IV. ISSUE 3: OBSTACLES TO LICENSING RE-RELEASES

Metin Uzelli is the second-generation owner of Uzelli Records, an independent label producing music from Turkey and the Turkish diaspora in Germany since the 1970s. The transition to online digital platforms had reproduced a frustrating issue that Uzelli had confronted with the arrival of the CD format. The issue had to do with how the state's IP reform process created legal and practical obstacles to re-releasing existing recordings in new formats. As I have shown in my prior two analyses of specific issues, here I will show how the digital streaming environment reproduced this older issue in a transformed way.

The problem was as follows: beginning in 1986, record producers were required to register new albums with the Cultural Ministry, which would then issue *banderoles* for the labels to affix to the cassettes and records sold in the marketplace.⁴⁷ As part of the registration process, labels had to submit a particular documentation of consent (*muvaafakatname*) to record, copy, and distribute the musical works included on the album. The new system was aimed at addressing the problem of film and record piracy, and it helped standardize rights administration. However, prior to 1986, while many labels kept notarized documentation of authorizations to record (often called simply "documents" – *evrak*), no such system standardized these agreements, and many are considered invalid today.

⁴⁷ The registration system was established by the 1986 Law on Cinema, Video, and Musical Works, which was canceled in 2004. Article 13 of the copyright statute now mandates a similar registration system.

In Uzelli's summation of the matter, prior to 1986, the musicians would come, sign over their rights to the label, and the label would keep printing the album without an issue. After 1986, some musicians approached labels who were continuing to print their albums, challenging them to show that they had sufficient documentation that they had the right to do so according to the newly revamped standards. Since the labels often could not, they would be sued. Uzelli found his own situation particularly infuriating, since his father had long maintained meticulous documentation of agreements with and payments to rightsholders even prior to 1986. The agreements showed the songwriter authorizing the use of every conceivable right to the songs on an album, receipts that recorded not only an advance paid at the time of signing but also subsequent royalty checks paid upon additional printings of the album. However, in some of these cases, the contract happened to use the term "cassette" in its language about the album that would be released. It seemed to Uzelli ridiculous that on this basis, he would need to sign all new agreements to release the CD, a potentially prohibitively expensive and laborious process where there were multiple rightsholders, some of whom may have died in the meantime and left the rights to a group of heirs with whom he would have to negotiate. But record producers in Uzelli's situation face the prospect of lawsuits if they release a recording in a new format not covered by the original agreement.⁴⁸ He complained that in one case, he had released a compilation album by a well-known musician who had recorded several albums on his label. But he had not been able to select the best songs; rather, he had had to choose recordings of anonymous folk music because he had been unable to clear some of the copyrighted tunes he had wanted to include. The few items from his catalog that he has been able to re-release in a new format have been straightforward cases for re-acquiring permissions, such as where the featured artist on the album performed solo and only performed their own works, meaning that there was only one individual who would have to sign a new agreement. When he first described the issue to me during an interview in 2015, he told me that while the label had 1300 recordings that had originally been released on vinyl or cassette, in part because of this issue, only 20 had been re-released as a CD.

Despite these obstacles, a selection of Uzelli's out-of-print recordings are available to stream from his website and on platforms such as Spotify. On a more recent visit, I noticed a few antique reel-to-reel tape machines in his office. He explained that each day, he pulls the master of one of the label's archival recordings out of the vault and digitizes it, adding it to the online catalog. When I asked how he was legally able to do this, given the licensing obstacles he had

⁴⁸ For an example of such a lawsuit, see Yargıtay 11. H.D., 16.3.1995, Esas 1995/288, K. 1995/2049, cited in GÜRSEL ÖNGÖREN, TÜRK FIKİR VE SANAT ESERLERİ HUKUKU AÇISINDAN MÜZİK ESERLERİ [Musical Works from the Perspective of Turkish Law on Intellectual and Artistic Works] (2010), 98-9. While it is considered valid to stipulate that the rightsholder authorizes the use of a work in all formats without naming each format one by one, in the case when the agreement stipulates a format, it implies that the authorization is for that format to the exclusion of other formats; *Id* at 324.

described, he reminded me that many of his label's recordings had been licensed according to German copyright law, since the label had long been based in Germany, and he was relying on the validity of the agreements his father had signed in conformity with German law. Other Turkish labels may not similarly have the option to rely on German law. While Uzelli had first encountered this issue in the context of licensing for the CD format albums first released as a cassette or record, the challenges that labels face in licensing older records in new formats takes on a special importance in the digital environment, where the long tail of a label's back catalog may supply a slow but steady income stream.⁴⁹

Industry executives meanwhile reported to me that a few lawyers were contacting the rightsholders in such recordings re-released on digital platforms and urging them to sue the labels on the grounds that their old authorizations should not apply in the new format. Such obstacles to re-releasing historic albums originally printed in older formats was one that several record label executives described to me. The frustration of such record label executives was often directed toward the rightsholders who leveraged the situation for their own gain, but also toward the lawyers who aided or encouraged them and also toward the statutory provisions and case law that afforded such legal ambiguities. In some ways, digitization may have improved the situation, since it obviates the need to purchase banderoles, for which the authorization agreements must conform to the regulations on registering recordings. On the other hand, legal uncertainty remains about the applicability of older authorizations to the digital format.

Returning to my main theoretical point, digital streaming platforms represented yet another new format in which labels sought to re-release recordings from their back catalogs. Yet doing so meant confronting an old challenge: how pre-1986 recording agreements often failed to conform to more recent regulations on such agreements, necessitating new authorizations for the re-release in the new format. At the same time, the streaming environment had transformed the situation, since it heightened the importance of labels' back catalogs to their business models. And while it made applying for banderoles unnecessary, the prospect of being sued by rightsholders to the songs and performances on the recordings perpetuated the legal uncertainty of the situation.

CONCLUSION

In examining these three issues, my aim has been to highlight how, despite the transformative nature of the transition to digital distribution, older challenges with copyright as it applies in Turkey's music sector have persisted. At the same time, digitization also modifies or amplifies them in some ways.

⁴⁹ CHRIS ANDERSON, *THE LONG TAIL: WHY THE FUTURE OF BUSINESS IS SELLING LESS OF MORE*, (2006); Gregory D. Booth, *A Long Tail in the Digital Age: Music Commerce and the Mobile Platform in India*, 48 *ASIAN MUSIC* 85 (2016); cf. Laurina Zhang, "Intellectual Property Strategy and the Long Tail: Evidence from the Recorded Music Industry," 64 *MANAGEMENT SCIENCE* 24 (2018).

The issue of the notoriously low royalties paid out for digital streams compounded a set of longer-standing, stubborn obstacles to increasing the sector's licensing income. One longstanding issue was the huge number of unlicensed venues where copyrighted music is publicly performed, whether on a stage or over the speakers of a hotel lobby or shop, while another complication lay in the purported disorganization and the lack of coordination among the competing collecting societies operating in the area of music performing rights licensing. While digital technologies promise novel solutions to some of the challenges to such licensing, they also present new complications. Meanwhile, digital technologies also afforded new pathways to fraudulent claims on the country's heritage of anonymous folk music. YouTube's user-generated content platform allowed multiple parties to claim shares of the publishing rights in music videos, altering the media ecology in a way that allowed more distantly positioned actors to place questionable claims over the rights in folk music. At the same time, the issue resonated with the longer history of folk song "theft." Finally, the digital streaming platforms reproduced some of the legal uncertainty record labels already faced in re-releasing old recordings in new formats. However, it also altered the situation by obviating the need for the banderoles required for the legal sale of physical recordings, affording some labels the chance to re-release old recordings on digital platforms despite the legal uncertainty produced by policies regulating the agreements on which these were based.

These findings resonate with what anthropologists and other scholars have described in terms of "ontological politics": how the human subject is co-constituted and transformed through social relations and engagements with the material world.⁵⁰ I have already mentioned this idea as it relates to the case of collective ownership in folk music, but digitization mediated such ontological politics in other cases I described as well. For example, digital technologies subtly alter the relationship between the state and its subjects. Where income from digital streaming is already low, the recent problem of hyperinflation—produced by macroeconomic policy such as the central bank's refusal to raise interest rates—further exacerbates the issue as subscription prices for streaming services have failed to keep up with inflation. As just mentioned, the Cultural Ministry's primary anti-piracy tool, the banderole system, becomes largely irrelevant in the digital context, where there are no physical products to which one might affix the holographic seals. The failure of the state to pass copyright legislation that is

⁵⁰ See generally, Oliver J. T. Harris, and John Robb. *Multiple Ontologies and the Problem of the Body in History*. 114 AMERICAN ANTHROPOLOGIST 668 (2012); Martin Holbraad, and MORTEN AXEL PEDERSEN. THE ONTOLOGICAL TURN: AN ANTHROPOLOGICAL EXPOSITION (2017); Eduardo Kohn. *Anthropology of Ontologies*. 44 ANNUAL REVIEW OF ANTHROPOLOGY 311 (2015.). For cases related to music, digitization, and/or IP specifically, see Georgina Born. 2005. "On Musical Mediation: Ontology, Technology and Creativity." *Twentieth-Century Music* 2 (1): 7–36. <https://doi.org/10.1017/S147857220500023X>; Georgina Born, ed. 2022. *Music and Digital Media: A Planetary Anthropology*. London: UCL Press. <https://directory.doabooks.org/handle/20.500.12854/92239>.

updated for the demands of the digital environment may also exacerbate long-standing distrust in the Turkish state's ability to implement IP laws effectively. Digitization also transforms the transnational relationships which the copyright system establishes, as is most obvious in the ease with which far-flung actors may stake a claim in Turkey's public domain folk music.

Despite such ways that digitization mediates state-subject and transnational relationships, for many copyright stakeholders, the continuities that have persisted through digitization prove salient. If publishing royalties from digital streaming are notoriously low, this only seemed to exacerbate or reinforce the long-standing issue of unsatisfactory licensing income, for which most industry actors blame the purportedly disorganized and ineffective collecting societies and recalcitrant users of copyrighted music. When it comes to licensing the re-release of old recordings, the streaming environment represents just the latest in a series of formats that present a new bureaucratic and contractual obstacle. UMPG's alleged claim on the rights to anonymous folk songs seemed to resonate with the old story about the exploitation of public domain heritage. Despite the ways in which such copyright issues take on new guises in the digital context, copyright stakeholders and other industry actors often link them to longer-standing narratives about the dysfunctional or underdeveloped nature of copyright in the country and the role of state, private, and civil society actors in producing and addressing the situation.