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The Evolution of the Concept of Originality in European Musical Creation: From the Collaborative Practices of the Baroque to the Challenges of Contemporary Artificial Intelligence

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Abstract: *The concept of originality, which constitutes today the legal foundation of authors' rights in music, has undergone a complex evolution throughout European history. Emerging from the collaborative and non-proprietary practices of the Baroque period to the challenges posed by artificial intelligence in the twenty-first century, our understanding of the "original musical work" has transformed greatly over time. This paper analyses the conceptual metamorphosis of musical originality through the lens of historical development, exploring how philosophical, economic, and technological changes have shaped the contemporary legal foundations of intellectual property in music.*

Key-words: *musical originality, copyright law, intellectual property, historical evolution, collaborative creation*

1. Introduction

The contemporary axiom that composers possess exclusive property rights in their creative musical works appears self-evident within Western music culture. Yet this conception emerged gradually, contested and fragmented across centuries of legal, philosophical, and economic struggle. The Baroque era, which witnessed the composition of works now canonized as foundational to Western classical music, operated within an entirely different paradigm-one in which collaborative composition, anonymous contributions, and the absence of proprietary claims constituted the unremarkable norm. The transformation from this collaborative, patronage-centred regime to the modern system of individual copyright protection

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represents not merely a legal evolution, but a profound reconceptualization of how European civilization has understood the relationship between creative labour, economic value, ownership, and artistic integrity.

The following paper explores four transformations across important periods relevant to significant legal cases and statutory growth from connected philosophies and economies that make sense of the musical IP world we've constructed today. The analysis proceeds from the foundational debates of eighteenth-century English jurisprudence, through the codification and international harmonization of the nineteenth century, into the technological disruptions of the twentieth century, and finally into the contemporary challenges posed by algorithmic composition and artificial intelligence. Yet it's an overly facilitated perspective developed over centuries of legal, philosophical and economic entanglement for one to believe all composers should be treated thus. Throughout this historical arc, the concept of originality has proven simultaneously indispensable and unstable-ever more refined in legal doctrine, yet perpetually contested in its philosophical foundations.

2. Eighteenth-Century Foundations-Originality as Legal Principle

2.1. The Pre-copyright regime: Baroque collaboration and patronage

To comprehend the significance of eighteenth-century legal developments, one must first recognize the absence of what we now call copyright. As Mark Rose has meticulously documented in Authors and Owners: The Invention of Copyright, the early modern period operated under what he terms a “regime of regulation” rather than a “regime of property” (Rose 2002). Publishing rights were administered through the English Stationers’ Company as regulatory grants, not as authorial property. The author did not own the copyright in his work; rather, he possessed only the physical manuscript, which he could sell or license to a publisher, thereby relinquishing future proprietary interest.

For composers, the situation was even more attenuated. Baroque composers worked principally within patronage systems administered by courts, churches, and aristocratic households. The patron held effective control over compositional output. Collaborative composition was ubiquitous: operatic works routinely incorporated contributions from multiple composers without such contributions being formally distinguished. Anonymous authorship was standard practice (Olteanu, 2005). The notion that a composer possessed an inherent, alienable right to control reproduction and performance of his works, or to receive per-

performance compensation, would have been incomprehensible within the legal and economic structures of the period (Frith and Marshall 2009). Instead, composers derived remuneration through stable employment as court or church musicians, or through direct payment for specific commissions.

The rise of music printing beginning in the late fifteenth century created a market for published scores, yet this market did not automatically generate a concept of compositional originality as proprietary. Music publishers, like their literary counterparts, held the effective publishing right; composers' claims remained peripheral and economically insignificant. As Siva Vaidhyanathan has argued in Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity, the absence of copyright protection for music was not perceived as a legal deficiency, but simply as the background condition within which composers, musicians, and publishers operated (Vaidhyanathan 2001).

2.1. The threshold of originality: Millar v. Kincaid (1751)

The first of the landmark cases examined here reveals the profound legal uncertainty surrounding literary property in the mid-eighteenth century. Millar v. Kincaid, litigated in Scottish courts, concerned the foundational question: did copyright exist at common law independent of the Statute of Anne (1710), and if so, could it be perpetual? The Scottish judges, confronted with competing claims about whether authorial originality could ground perpetual copyright outside statutory bounds, ultimately rejected such claims, affirming that copyright was fundamentally a creature of statute, limited in duration and contingent upon legislative grace (Little 2001). Although this case concerned literary works rather than music, its implications were profound: even a genuine author's originality in creating a work did not automatically confer perpetual property rights. The statute alone determined copyright's existence, scope, and duration.

2.2. Tonson v. Collins (1761-1762) and the emergence of originality discourse

Tonson v. Collins represented the first substantial judicial engagement with originality as a philosophical and legal principle. The case involved publishers disputing over rights to reprint classical texts. Arguments advanced by counsel-though the court ultimately declined to decide on the merits-articulated sophisticated theories about the philosophical foundations of authorial rights. Some advocates argued that an author's genuine creative contribution, marked by intellectual and creative labour, naturally generated perpetual property rights

grounded in natural law philosophy. Others contended that such rights were purely statutory artifacts, existing only as legislation permitted (Little 2001).

Significantly, the discourse concerning originality that emerged in Tonson v. Collins did not distinguish between literary and musical originality. The philosophical argument was general, applicable across categories of creative expression. Yet the case demonstrated that by the 1760s, English legal thought had begun grappling seriously with originality as a foundational philosophical category-not merely as a practical descriptor of whether a work had been copied, but as a principle justifying exclusive legal rights (Cornish et al. 2013).

2.3. Millar v. Taylor (1769 – The Natural Rights apotheosis

In Millar v. Taylor, Lord Mansfield and a narrow majority of the King's Bench articulated the boldest claim for authorial originality yet advanced in English jurisprudence. They held that an author's originality in creating a literary work gave rise to a perpetual common law right of property, unaffected by and transcending the Statute of Anne (Rose, 2002).

This decision represented the apogee of natural rights theory applied to copyright: originality itself was treated as the generative source of property rights, grounded in the author's labour and the distinctiveness of his creative contribution. As Peter Drahos has analysed in A Philosophy of Intellectual Property, the decision reflected a conception of intellectual property rooted in Lockean labour theory-the notion that one's creative exertion naturally generates property claims (Drahos 2016).

The significance of Millar v. Taylor for music cannot be overstated: the decision established in principle that originality-based copyright was not confined to literature narrowly construed, but extended potentially across all forms of creative expression, including music. This jurisprudential foundation would subsequently enable composers to claim authorial status and proprietary rights equivalent to their literary counterparts, fundamentally reshaping the economic and cultural position of musical creation within European legal systems.

2.4. Donaldson v. Becket (1774) – Statutory instrumentalism triumphant

Yet the House of Lords, in Donaldson v. Becket, decisively overturned Millar v. Taylor. The Lords held that while an author might possess a common law right in unpublished works grounded in originality, that right was extinguished upon publication; thereafter, copyright subsisted solely under the Statute of Anne, limited to the statutory duration (Cornish et al. 2013). This judgment was

momentous: it effectively subordinated originality as a philosophical principle to statutory instrumentalism.

An author's originality might be a necessary condition for copyright protection, but it was not sufficient. The legislative will-embodied in statutory text-determined whether originality would be protected at all, and for how long.

Donaldson v. Becket also definitively established the public domain principle: works whose copyright term had expired entered the public, free for reproduction and exploitation. This principle acknowledged that while originality might ground a limited property right, it could not justify perpetual exclusion.

The public interest in cultural access, and the recognition that all creators build upon prior traditions justified eventual entry of all works into the commons, thus being publicly available to consult.

2.5. Bach v. Longman (1777) – The Recognition of Musical authorship

In this legal and philosophical context, merely three years after Donaldson v. Becket, Lord Mansfield decided Bach v. Longman. Johann Christian Bach, a celebrated composer resident in London, sued a music publisher for unauthorized publication of his musical compositions. The defendant argued that music-being evanescent sound rather than fixed notation-did not constitute "writings" within the meaning of the Statute of Anne and therefore fell outside copyright's scope.

Lord Mansfield rejected this argument decisively. He held that printed musical notation constituted "writings" eligible for statutory copyright (Little, 2001). More significantly, he recognized that composers, like literary authors, qualified as "authors" for purposes of copyright law. The decision thus extended the entire framework of originality, authorship, and proprietary rights to music. A composer's original musical work, expressed in notation and published, received copyright protection for the statutory term (Rose, 2002).

Bach v. Longman was revolutionary precisely because it was not controversial. It simply applied existing principles developed through literary copyright cases to music, implicitly treating musical originality as equivalent to literary originality. Yet this extension carried profound implications. It meant that the concept of the composer as solitary author, creating an original work and entitled to exclusive exploitation rights, was now embedded in English law. The Baroque paradigm of collaborative, patronage-funded composition was legally superseded, even if cultural and economic practices continued for some time to reflect older models.

3. Nineteenth and Twentieth Centuries-Codification, Internationalization, and Fragmentation

3.1. The Copyright Act of 1842 and Compositional Originality as Economic Value

The nineteenth century witnessed music's transformation into an industrial commodity. Rising middle-class musical consumption, proliferation of music publishing enterprises, expansion of concert halls and opera theatres, and development of musical instruments for domestic use created unprecedented economic opportunities for composers. Copyright law underwent corresponding expansion.

The Copyright Act of 1842 explicitly extended protection to musical compositions and established copyright duration as "the life of the author and seven years after his death, or forty-two years from first publication, whichever should be the longer" (Rose, 2002). This represented a dramatic expansion from the fourteen-year terms of the Statute of Anne. Composers now received protection extending well beyond their lifetimes-a recognition that originality in a musical work generated value extending indefinitely, limited only by legislative grace.

Moreover, the 1842 Act codified recognition that composers were "authors" whose originality generated property rights. As Rose emphasizes, this transformation was not merely legal but philosophical and cultural: composers, like literary authors, came to be reconceived as possessing an inherent right to their creations, grounded in natural law principles and justified by intellectual labour (Rose, 2002). The romantic image of the composer as solitary creative genius, pouring unique personality and vision into works bearing the unmistakable imprint of individual creativity, became the cultural norm precisely as copyright law was legally enshrining this image.

3.2. The Berne Convention of 1886 and International originality standards

By the late nineteenth century, national fragmentation of copyright law created economic obstacles. A work copyrighted in Britain might be unprotected in France; a French composition might be vulnerable to unauthorized republication in Germany. Nations negotiated the Berne Convention for the Protection of Literary and Artistic Works (1886), establishing international copyright standards.

Crucially, the Berne Convention recognized that "literary and artistic works," including musical compositions, were protected automatically "from the moment of creation" without registration, publication, or other formality (WIPO, 1886). Originality alone sufficed for protection. A composer's original work, once fixed in

tangible form (notation), automatically received protection throughout all signatory territories (Jenkins 2025). This principle represented a legal triumph for the theory articulated in Millar v. Taylor: originality in authorship was the foundation of copyright protection, requiring no bureaucratic intermediation.

The Convention also included provisions recognizing that adaptations and arrangements of existing works could constitute protected original works, provided they involved sufficient creative contribution (WIPO 1886). This principle would generate centuries of subsequent litigation about what constituted sufficient originality in derivative works, but it established a crucial conceptual framework: originality was not binary but existed in degrees and in specific contributions to existing works.

3.3. Mechanical reproduction and the limits of originality

Yet even as copyright protection for composers was expanding, technology created unprecedented challenges. Rise of mechanical music reproduction-particularly the player piano and subsequently the phonograph-generated a crisis in copyright doctrine. In White-Smith Music Publishing Co. v. Apollo Co. (1908), the U.S. Supreme Court held that mechanical reproductions of musical compositions (piano rolls) did not constitute "copies" under copyright law, because the reproduction was not in a form intelligible to human readers (punched holes rather than notation) (McKenna 2010).

This decision revealed a fundamental tension: originality in a musical composition generated rights over publication and performance. But it did not automatically generate rights over mechanical reproductions in novel media. The composer's originality was, in a sense, trapped in the medium of musical notation; it did not necessarily extend to control over reproduction of the work's sounds through technological means.

Congress responded swiftly with the Copyright Act of 1909, which created a compulsory mechanical license (Jenkins 2025). The Act granted composers rights to authorize mechanical reproduction but limited these rights: once a composer had authorized mechanical reproduction of a work, anyone could mechanically reproduce it upon payment of a statutory royalty (initially two cents per copy) (Jenkins 2025). This represented a fundamental reconceptualization of originality: the composer's originality generated a right, but that right was circumscribed in scope and duration. It was not an absolute monopoly right to exclude competitors, but rather a right to statutory compensation. Public policy-the interest in disseminating music widely-took precedence over unlimited exploitation rights grounded in originality.

The compulsory license also implied a critical division of copyright interests: the composer held rights in the composition itself, while mechanical reproduction generated separate rights in producers of those reproductions. This bifurcation anticipated later developments that would fragment originality into multiple overlapping layers.

3.4. The Copyright Act of 1911 and Sound Recording Protection

The Copyright Act of 1911 represented a comprehensive overhaul of British copyright law in light of the Berne Convention and ongoing technological change. Significantly, the 1911 Act provided that sound recordings themselves-phonograph records and similar devices-constituted protected works distinct from the underlying musical composition (Frith and Marshall, 2009). This created a bifurcated copyright regime: composers held copyright in musical compositions (the song, notes, melody, harmony, rhythm), while sound recording producers held copyright in the sound recording (the specific fixation of sound, production choices, performance characteristics).

This distinction implied a conceptual division of originality: originality could inhere in the composition or in the recording. A sound recording could constitute an "original" work even if reproducing a public domain composition, because originality in the recording lay in the producer's creative contribution to the acoustic qualities and characteristics of that recording (Frith and Marshall 2009). This principle established a precedent that would have profound implications for twentieth-century music: multiple authorial entities could claim distinct originalities in the same musical product.

3.5. The Twentieth century: Fragmentation of originality

By the mid-twentieth century, courts grappled with assessing originality in musical works, particularly in plagiarism cases. In Arnstein v. Porter (1946), the Second Circuit Court of Appeals articulated the foundational test for musical infringement that remains dominant in contemporary law (Frith and Marshall 2009). The test required proof of access and copying, combined with "substantial similarity" between plaintiff's and defendant's works. Crucially, the test required courts to distinguish between elements that were original to the plaintiff's work and elements that were common, conventional, or unprotectable-standard harmonic progressions, musical clichés, stock devices.

Arnstein v. Porter implied a radically different conception of originality than earlier jurisprudence had suggested. Rather than treating originality as a property

of an entire work, courts analysed originality within works, identifying specific original elements and comparing those elements between works. This doctrine meant that originality was not binary but distributed: a composer might create a work in which some elements were highly original while others were conventional. Only the original elements received protection (Frith and Marshall 2009).

3.6. The Sound recording Amendment of 1971 and stratified originality

The Sound Recording Amendment of 1971, enacted in the United States, extended federal copyright protection to sound recordings (United States Copyright Office, 1971). Following the model established by the 1911 Act, the Amendment created a distinct copyright in the "phonorecord"-the sound recording fixed in any tangible medium. Significantly, the Amendment limited the reproduction right to protection against duplication that "directly or indirectly recapture[s] the actual sounds fixed in the recording" (Jenkins 2025). This language suggested that originality in a sound recording inhered in the specific acoustic signal produced in the recording session, not necessarily in the underlying musical composition or in the performance per se.

The Sound Recording Amendment stratified copyright protection for music into distinct layers: (1) the composition (typically owned by music publishers, representing the composer's originality); (2) the sound recording (owned by record labels, representing producer originality); (3) the performance (owned by recording artists); (4) mechanical reproduction rights (governed by compulsory licensing). Each layer represented distinct originality: the composer's originality in notes and structure; the producer's originality in recording; the performer's originality in interpretation.

By the late twentieth century, a single recording of a musical composition embodied multiple overlapping copyrights vested in different rights-holders, each based on distinct originality concepts. This represented a radical departure from the unified concept of authorial originality that had been established in Bach v. Longman.

3.7. Contemporary challenges: Sampling and Editorial originality

Rise of digital sampling in the 1980s and 1990s forced courts to confront novel originality questions. Hip-hop and electronic music producers routinely incorporated brief samples from prior recordings-melodic phrases, rhythmic passages, distinctive vocal elements-into new compositions. This practice prompted fundamental questions: Did a sample constitute infringement of the original recording? Could heavily processed or layered samples constitute original works? How much transformation converted unauthorized sampling into original composition?

The law developed the de minimis doctrine-the principle that trivial or insignificant takings do not constitute infringement (Hick 2017). Yet defining "trivial" proved deeply problematic. Courts disagreed about whether a distinctive four-note phrase, even if taken without permission, was trivial or substantial. Some emphasized quantitative factors (how much of the recording was taken), others stressed perceptual factors (whether an ordinary listener would recognize the sample), still others applied a qualitative test based on the significance of what was taken relative to the overall work (Hick 2017).

A significant late twentieth-century case, Sawkins v. Hyperion Records (2005), extended the originality concept into editorial labour (Mihăilă, 2022). The plaintiff, musicologist Lionel Sawkins, had prepared performing editions of seventeenth-century Baroque compositions, making extensive editorial interventions (adding instrumentation cues, articulation marks, etc.). The question: did these editions constitute original musical works eligible for copyright?

The English Court of Appeal held affirmatively, recognizing that editorial labour - "effort, skill and time" invested in edition preparation-could confer originality, even when applied to public domain works (Mihăilă, 2022). However, the decision was controversial within musicological circles. Critics argued it conflated authorial originality (the mark of genuine creativity) with editorial labour, inflating the originality definition and potentially extending copyright monopolies over public domain material (Mihăilă 2022).

4. Contemporary Perspectives and Philosophical Evolution

4.1. From Natural Rights to instrumental pragmatism

The historical trajectory reveals a profound philosophical transformation. Eighteenth-century natural rights theorists, articulated most forcefully in Millar v. Taylor, conceived of copyright as grounded in authorial labour and the inherent justice of allowing creators to control creative fruits. Originality was the mark of genuine authorship; authorship generated property rights (Rose 2002).

Yet Donaldson v. Becket and subsequent developments progressively subordinated natural rights philosophy to statutory instrumentalism. Originality remained important-a threshold requirement for copyright protection-but originality alone could not justify copyright's existence. The legislature must determine whether protection would be granted, for how long, and subject to what limitations (Rose, 2002). This represented a decisive shift from natural rights to legal positivism: copyright was not an inherent right but a legislative creation;

originality was merely one consideration among many-alongside concerns about market competition, public access to information, and incentives for cultural creation.

By the late twentieth century, originality had been further reconceived: no longer an all-or-nothing matter but a question of degree and distribution within works. Courts did not ask whether a work was original, but whether specific elements were original and whether those elements rose to protectable expression. The concept became, essentially, a legal convention-a threshold of "minimal creativity" or "modicum of originality"-rather than a substantive philosophical category (Schlag 2002).

4.2. Collaborative Creation and Romantic authorship

The Baroque period's collaborative composition practices represented a fundamentally different paradigm. Works were often understood as collective creations, with contributions from librettists, impresarios, performers, and arrangers woven seamlessly into the final product without systematic attribution of distinct authorial claims. This collaborative model reflected medieval and Renaissance craft traditions emphasizing collective enterprise over individual genius.

By contrast, the Romantic movement elevated the artist as solitary genius, pouring unique personality and vision into artworks bearing the unmistakable imprint of individual creativity. This romantic vision of authorship aligned perfectly with emerging copyright law: the solitary composer, conceiving original works and possessing exclusive rights to exploitation, was the romantic ideal embodied in legal form. Nineteenth-century copyright law institutionalized and reinforced this romantic image.

Yet even as copyright law was enshrining the romantic image, technological and economic changes were fragmenting authorship anew. The sound recording, in particular, introduced new creators (producers, engineers) whose originality in shaping the final product might exceed that of performing musicians. This suggested that the romantic ideal of solitary genius, while culturally powerful, was increasingly inadequate to explain actual contemporary musical creation.

Legal doctrines are gradually evolving to recognize joint authorship, derivative works, and „curatorial" creativity—where originality lies in selection, arrangement, or transformation of existing material. This evolution challenges copyright law to balance protection with the networked, collaborative nature of contemporary musical creation.

As Séverine Dusollier has argued in recent work examining copyright in the digital age, the concept of authorship must accommodate the reality of multiple creators with distinct, overlapping contributions - a challenge that copyright law continues to struggle with (Dusollier 2024). The romantic model of solitary authorship, legally embedded, fails to capture contemporary creative realities in which originality is distributed across multiple contributors (Dusollier 2024).

4.3. The Public Domain and originality's boundaries

One final conceptual transformation deserves emphasis: the emergence of the public domain as a legally protected common. As established in Donaldson v. Becket, once a work's copyright term expired, it entered the public domain, free for reproduction and exploitation. This principle acknowledged that originality, while potentially grounding a right to exclude others, could not justify perpetual exclusion. The public interest in cultural access, and the recognition that all creators build upon prior traditions, justified the eventual entry of all works into the commons.

This principle has profound implications for understanding musical originality. It implies that every composer's originality is itself built upon the work of predecessors- upon melodies, harmonic structures, and musical forms that originated in prior compositions and eventually entered the public domain. Bach's compositions drew extensively upon earlier musical traditions and conventions, yet Bach is celebrated as a genius precisely because of how he used, transformed, and transcended those traditions (Hick, 2017). The public domain was not a realm of unoriginal work, but rather the foundation upon which all original work necessarily built.

As Peter Drahos has argued, the public domain represents a space of commons-based creativity essential to any functioning intellectual property system (Drahos, 2016). Without it, originality itself becomes impossible, as every creator would face barriers to building upon prior traditions.

5. Contemporary Challenges – From Sampling to Artificial Intelligence

5.1. The Instability of originality in the Digital Age

The emergence of digital technologies and artificial intelligence has exposed profound instabilities in the originality concept. Algorithmic composition, generative AI systems trained on vast corpora of human-composed music, and contemporary sampling and remix practices challenge fundamental assumptions

about what constitutes original authorship (Poland 2023). As Edmond Gabriel Olteanu has analysed in The Challenges of Copyright: 160 Years After the First Regulation in Romania, artificial intelligence represents "the last frontier" for copyright doctrine, forcing reconsideration of whether originality necessarily requires human authorship (Olteanu 2022).

Contemporary legal systems have begun recognizing that AI-generated works, lacking direct human authorship and creative intention, may not qualify for copyright protection (Poland, 2023). This development reflects a reassertion of human authorship as central to the originality concept-a reassertion that seems to return to natural rights theory's emphasis on authorial labour and intentional creation. Yet it also reveals the extent to which originality, once understood as a property inherent in creative works themselves, has become increasingly tied to the biographical facts of creation: who made it, and how intentional was that creation?

5.2. The Fragmented originality of Contemporary Music

In contemporary music production, originality has become radically fragmented. A commercially released recording might involve dozens of distinct originalities: the songwriter's originality in composition; the arranger's originality in orchestration; the producer's originality in recording and mixing; the performer's originality in interpretation; the engineer's originality in technical execution; the mastering engineer's originality in final audio preparation. Each represents a potential copyright claim; each resides in different legal subjects; each is governed by distinct legal rules regarding duration, transferability, and enforcement.

This fragmentation means that "original music" no longer refers to a unified creative product, but rather to a bundle of overlapping originalities, each located in different layers and vested in different rights-holders (Jenkins 2025). The unified concept of musical originality that Bach v. Longman established has fractured into a multiplicity of partial originalities, each governed by distinct legal regimes and facing distinct challenges regarding identification, valuation, and enforcement.

6. Conclusion

The history of musical originality in copyright law reveals not a linear progress toward perfect legal articulation, but rather a continuous negotiation between philosophical ideals and practical necessities, between individual authorial rights

and public interests in cultural access, between technical doctrine and the lived realities of musical creation.

From the Baroque paradigm of collaborative creation unfettered by property claims, through the eighteenth-century establishment of composer-as-author and originality-as-foundation, through nineteenth-century codification and international harmonization, through twentieth-century technological disruptions that fragmented originality into multiple layers, and into contemporary challenges posed by algorithmic composition and artificial intelligence, the concept of musical originality has proven simultaneously indispensable and unstable.

Originality remains indispensable as the threshold criterion distinguishing copyrightable works from mere copying. Yet it has become increasingly unstable: the concept has been stretched to accommodate technological change (sound recordings, mechanical reproduction), cultural practices (sampling, remix, algorithmic composition), and evolving understandings of authorship (collaborative creation, editorial labour, AI-assisted composition). The result is that contemporary copyright law's originality concept has lost much of the philosophical coherence it once possessed. What remains is a pragmatic legal convention-a threshold of minimal creative contribution-that attempts to balance competing interests without fully satisfying any.

The future of musical originality will likely involve further transformations. As artificial intelligence systems become increasingly sophisticated in generating music indistinguishable from human composition, copyright law will face renewed pressure to clarify what role human authorship plays in the originality concept. As collaborative and algorithmic composition practices become increasingly normalized, the romantic ideal of the solitary composer-genius will face continued pressure from legal doctrines recognizing multiple, overlapping originalities. The public domain-those commons built from expired copyrights-will remain crucial to any functioning originality system, as each generation of creators builds upon the works of predecessors.

What seems clear is that musical originality, far from being a fixed, timeless legal category, represents an ongoing negotiation between philosophy, law, technology, and culture. Understanding its history may not resolve contemporary disputes about what copyright should protect, but it can remind us that the legal categories we take as natural and inevitable are actually historical products, shaped by contingencies and contestations, and perpetually subject to reimagining as circumstances change.

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