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## **What impact do differences between US and European copyright laws have on Peer to Peer (P2P) file sharing?**

From: Paul Jackson

Differences between US and European copyright laws have proved a wrinkle in the recording industry's attempt to protect its intellectual property.

Unlike the United States' 95-year protection for sound recordings, European artists enjoy only a 50-year grace period before the piece enters the public domain. Thus, works created in the 1950s are becoming freely available to European citizens despite the fact that Americans are still restricted. This poses problems for record companies seeking to curtail the activities of users of peer-to-peer file-sharing systems such as KaZaa and Gnutella, since they would be unable to prevent Europeans from uploading files and already face difficulty in tracking those who download copyrighted files.

[SOURCE: CNET News, AUTHOR: John Borland]  
([http://news.com.com/2100-1023-979532.html?tag=fd\\_top](http://news.com.com/2100-1023-979532.html?tag=fd_top))

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From: Alec McLane

I believe it's 70 years after the death of the author, or 95 years in other circumstances. But then there are all sorts of complicated considerations. Check out <http://www4.law.cornell.edu/uscode/17/302.html>.

From: Richard Koprowski

Actually, for sound recordings before 1972 you need to go one

section earlier: <http://www4.law.cornell.edu/uscode/17/301.html> for a very important EXEMPTION. Because recordings made in the United States prior to 1972 are specifically exempted here in the Copyright Act of 1976.

There you will find that the 50/70 year range doesn't really apply. The deadly sentence of section 301(c) is:

"With respect to sound recordings fixed before February 15, 1972 [the date federal copyright protection first became available for recordings], any rights or remedies under the common law or statutes of any state shall not be annulled or limited by this title until February 15, 2047 [now 2067 due to the Sonny Bono copyright extension legislation of 1998]."

Difficult to tell that this sentence deals with when old records go into the public domain, eh?

Before Title 17, state and federal courts had held that, because sound recordings could not be copyrighted before 1972, they were in effect protected INDEFINITELY. That is, the limited term(s) of federal copyright statute did not apply. The 1976 Act finally limited this protection to 75 years from the date that sound recordings could first be copyrighted (15 Feb. 1972). The Bono legislation extended this a further 20 years, ostensibly to protect Mickey Mouse (since Disney was about to lose the copyright). The record companies lobbied successfully to have the extension apply to sound recordings.

So historic sound recordings fixed in this country are not going to be in public domain for a long time. What is interesting is that some recordings, fixed AFTER 15 Feb. 1972 but for which the publisher does not renew registration during the 28th year of protection, will actually go into public domain before a Victor record made and sold in 1903!

Starting in February 2000, those of us who try to explain the copyright status of sound recordings to people have had a rough time. The problem is compounded because there may be cases where the registration for the recording is not renewed (for one reason or another), but the copyright of the music fixed in the recording is. The recording is then not strictly in the public domain (or parts of it, on a band-by-band basis for each side).

This aspect of copyright status was covered pretty thoroughly by Charlotte Roederer in an excellent article in the journal of the

Association for Recorded Sound Collections: "Copyright Status of Historical Sound Recordings--Protecting and Promoting the Public Domain", ARSC Journal, vol.23, no.1 (1992). Subsequent articles and columns have included updates and explanations of other obscure parts of the copyright law as they apply to sound recordings.

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