

Art Could Survive, But Artists Won't

Why Everything Stems From IP

There are some life stories or career highlights that would make anyone's jaw drop. From Neil Armstrong's official biographer to the extras in Star Wars, the creative community is filled with tales to brag about. Among these are individuals bridging the gap between yesterday's superstars and music's next generation.

Retired professor Todd Herreman grew up in a small town in Connecticut. When he was 5 years old, he discovered that he wanted to pursue piano performance. Todd started his first band in the seventh grade and became serious about honing his craft while in high school. He attended summer music programs in Indiana, which led him to attend Indiana University. While an undergraduate, Todd decided he needed to reinvent himself as more than a piano player if he wanted to have a sustainable career.

At this time, synthesizers were introduced, and music began to change toward sampling, sequencing, and the digital era. Todd thought he wanted to become a product specialist and realized he needed business experience on top of his music experience. He began working for a family-owned music store in Chicago and became an expert in Fairlight synthesizer technology, modeling and selling the then-state-of-the-art equipment. Among his clients was the artist Prince, who brought Todd on as his full-time programmer both on the road and in the studio. This opportunity provided a springboard for Todd, who concluded he wanted to use the gear rather than sell it. After a year with Prince, Todd moved to Los Angeles and started his own production company where he worked with several of the industry's elite artists.

But that was only the first act in Todd's story. After 18 years in the industry as a performer, composer, producer, and more, Todd decided he wanted to use his music industry connections to prepare the next generation of creators. After he transitioned to teaching at Southern Illinois University (SIU), he began earning a Master of Legal Studies degree. Although he knew about copyright and other intellectual property (IP) rights from his experiences in the industry, this course of study enabled him to learn more and find deeper connections between copyright and music that he then used to bolster his 20 years of teaching at SIU and Syracuse University.

IP is so fundamental to the creative community that Todd began every Introduction to the Music Business course with a section on copyright. As he says, "Without IP, the art could exist, but people couldn't make a living.



“Everything stems from IP. We can see an even more direct correlation between the individual licenses and resulting royalty—or fee incomes—from each exclusive right. There’s a direct correlation between the language in section 106 of the Copyright Act and my ability to license my work to bring in royalties. It’s not rocket science; it’s pretty cut and dry.”

—Todd Herreman

To me, it's that simple." IP truly is the foundation for every creative and innovative industry.

"Everything stems from IP. Follow the money. If we didn't have copyright protection, the ownership of this piece of property, we wouldn't be making any money in this business. The ownership of that property and how we can monetize it is essential to our business."

Indeed, Todd transitioned to teaching as the music industry navigated a variety of challenges during the turn of the millennium. Not only did digital technology change and shape the sound of the industry, but it eventually enabled people to acquire music for free. Unfortunately, this devaluation of music still remains ingrained in our culture in many respects, as digital piracy costs the creative industries billions in revenue and thousands of jobs each year.

"The industry has changed more in the last 10 years than it did in the prior 50 or 60 years. We have this thing that was a huge economic driver because of IP. When we ignore that property right because people are stealing music, then suddenly people aren't getting paid. To put it into context, the U.S. recorded music industry revenue around the year 2000 was over \$14 billion. Fast forward to 2015, it was \$6.8 billion. More than cut in half, with a significant effect on jobs. Suddenly, the gigs I was surviving on were becoming few and far between because budgets were slashed due to drops in sales. Ironically, the very technology that tanked the industry in the early 2000s is the same technology that's breathing life back into it now."

Indeed, as the tech revolution continues to roll full steam ahead, it presents both opportunities and risks for creators on many levels. Over the years, the various physical mediums have shaped the way music is produced, and social media has certainly left its mark on the industry. In the 1960s, almost all of the Beatles' hits were 2 minutes long to make them more radio friendly. In the early 2000s, radio-friendly songs were about 4 minutes, starting with intros and hitting the hook by the 1-minute mark. Now, many songs are back to 3 minutes, skipping the intro and reaching the hook within 30 seconds to grab the attention of consumers who rapidly click through content.

In the digital era, social media is also essential for new, major, and independent artists. This was especially true during the COVID era when creators kept the world connected via livestreams and special content. Those looking to cut a deal with an agent, record label, or other business can use their social media to garner attention and prove they have a built-in audience who will attend shows and buy their music and merchandise. Independent artists can use it to engage with their fans. While some may use their accounts

for personal engagement or activism, others use social media as an additional, more traditional marketing tool. But this opportunity for engagement and marketing also opens creators up to greater possibilities of digital IP theft.

"When does that initial disruption that's so cool come back to bite us? What used to be a positive answer takes on the same negative components what it disrupted in the first place. I think there will be a constant change. But when does the savior become the Achilles heel?"

Despite all this, one thing remains constant: the socioeconomic vitality of music. The economic impact of the creative industries is well documented. And no one can deny the ability of music to connect society. From old-school listening parties when albums first came out to swapping CDs at school and the share button on most apps, people crave the connection that music provides. But creators cannot fully build and sustain their careers as long as IP rights are disrespected.

"Who is going to make an album if they don't have any way of protecting that property? Music is a piece of property. It's the same as a deed to a house that identifies the owner. Without IP, the industry would not exist. Maybe it's an oversimplification, but without the rights to make copies, to make derivative works, distribution, public performance, etc., what could I do with the song I just wrote and recorded? How can I protect my work against those who try to steal it? I own it. I control it. I can do whatever I want with it. I can give that right to someone else either exclusively or nonexclusively. Clearly, the U.S. copyright system and many others around the world tell us that we have ownership of a piece of property. Without that, all bets are off. If we didn't have that, what recourse do we have?"

Certainly, Todd understands and personally feels the effects of IP. He still garners different royalties from works that he composed and published, as well some recordings he owns the masters for. One of his retirement hobbies is to compose and record more works to be licensed in film, television, or video games, generating further royalties from his IP.

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IP and the respect of IP has long enabled creators to provide consumers with the content they demand. The U.S. has long championed these rights both domestically and internationally, as evidence by the overwhelming socioeconomic impact the American creative industries have had. Creators large and small, like Todd, rely on these rights to enable them to adapt, create, survive, and continue the cycle.

