

**Copyright Capture:**  
**The Power of Music and the First Amendment to Set it Free**

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Copyright law has a history of being used by copyright holders to maintain market hegemony, stifle innovation, and ultimately diminish the marketplace of ideas. The unique advantages of music, including the therapeutic and expressive value of music, warrant consideration in evaluating the legitimacy of the scope and breadth of current copyright regulations. Societal interests in the power of music should not be overshadowed by the interests of the copyright holders. Market incumbents have urged the expansion of copyright beyond its “traditional contours.” And have in essence captured the legislative process for enacting copyright regulation. Copyright regulations have been used to hamper new technology and niche music – and correspondingly the diversity of ideas in the marketplace. Copyright laws are no longer an “engine of free expression.” Therefore, copyright regulation deserves renewed scrutiny to appropriately re-balance the needs of the copyright holder against the needs of the public. The First Amendment is an appropriate vehicle to exercise a check on the expansion of copyright regulation. As a corollary to the checking function on the abuse of power by public officials, the First Amendment should provide the means to check the abuse of power by copyright holders.