

# Copyright Reform for the Digital Era: Protecting the Future of Recorded Music through Compulsory Licensing and Proper Judicial Analysis

BY

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## ABSTRACT

*Given the cultural prevalence of copyrighted works in digital forms—and rampant infringement of them—it is evident that copyright reform is due. Absent reform, a review of the available litigious and market strategies for the recorded music industry in particular reveals that such strategies are inadequate to ensure that the constitutional directive underlying copyright law (incentive for creators) is met. In considering what type of reform is best, then, this Note argues that statutory reform should come in the form of compulsory licensing for prospective works.*

*This Note also argues in support of a better framework for digital infringement analysis in copyright litigation, allowing proof of infringement by circumstantial evidence. A primary benefit of such a framework is that it preserves the distinction between copyright holders' separate entitlements of reproduction and distribution. Another benefit is that such a framework preserves a proper balance: plaintiffs can protect their rights by litigation without having to stretch copyright law in new directions that favor plaintiffs in unacceptable ways. Finally, such a framework positions courts for considering other issues—both arising and unforeseen—that digital technology is raising.*

## SUMMARY

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