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Course of Principles of Civil Law

Authors' Rights and Italian Private Law: Contracts and Ownership in the context of Copyright

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INTRODUCTION

In Italy, the rights available to an author are referred to as Authors' Rights and these solely refer to those jobs which lead to the creation of works stemming from creative intellectual activity. Nevertheless, although there is a specific Law dedicated to the articulation of the Authors' Rights, the figure of the musical author is also closely linked to Private Law. This is because as the author is the creator of a work, and therefore, the proprietor, he shall seek protection for this work and this is implemented also through the use of contracts and laws regarding ownership. Therefore, the figure of the musical author fits into the context of Private Law through the application and interpretation of topics regarding Contract Law and Ownership.

The aim of this research is to identify and define the main elements regarding the protection of an author of a work and the protection of the work itself by clarifying all the rules available to an author and applying this knowledge to two important concepts which musical authors will encounter over the span of their career, these being, contracts and ownership of a work. In fact, it is often the case that musical authors need to sign contracts binding them to the execution of a specific performance or contracts involving the transfer of ownership regarding the exploitation rights of a certain sound recording.
When a musical author is at the start of his career, it is often the case that record labels or other parties involved in an agreement with the author have the greater contracting power, therefore, this research further aims to create greater understanding of the possible scenarios available to an author but also to introduce specific components (such as atypical contracts) required for a career in the field of music.
For the above reasons, this research will be divided in four chapters.

Chapter I will be analysing and defining Authors' Rights in the Italian Jurisdiction with the aim to identify the various laws and rules which protect the author of a work and his work. Subsequently, Chapter II will examine the field of Contract Law according to Italian Private Law and how this links to authors of a work by making references to the formation of a contract and specific atypical contracts which are commonly used in the music industry. It is in fact the case that an author shall seek protection for the exploitation of his work and this protection arises through the use of contracts. Chapter III will look at the concept of Ownership and the different types of ownership for a work according to Italian Private Law with the addition of a practical case regarding Taylor Swift's master recordings ownership controversy and how this could be interpreted differently under Italian Law.

Finally, Chapter IV will further implement the concept of Ownership from a blockchain perspective and feature a practical case regarding The Weeknd's Non-Fungible Token (NFT) project.

CHAPTER I: AUTHORS' RIGHTS

1.1: Authors' rights in Italy

The scope and nature of authors' rights can best be interpreted through Article 27, paragraph II of the Universal Declaration of Human Rights, "*Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author*"[1].

Authors' rights are the legal standard which satisfy the need to protect the author of an immaterial work. Specifically, the law regarding authors' rights is a branch of Private Law which aims to protect the creation of a work resulting from intellectual activity[2]. These rights apply to works of creative character which belong to literature, music, figurative arts, architecture, theatre or cinematography[3]. This legal standard is present all over the world, however, it differentiates in countries depending on the country's legal system. The difference is among Civil Law countries and Common Law countries (in which for the latter it is referred to as copyright). In Italy, a Civil Law country, authors' rights are covered by the case law of Law No. 633 of April 22, 1941 (abbreviated to l.d.a.) which intervenes in the protection of the rights associated with the creation of a work.

1.2: The object of Authors' rights

Article 2575 of Italian Civil Code states that, "*Works of intellect of creative character which belong to the sciences, literature, music, figurative arts, architecture, theatre and cinematography form the object of the authors' rights whatever its mode or form of expression*" [4].
The protection of a work by authors' rights is expressed on the process of creating a work as a result of creative intellectual activity which leads to the creation of a concrete work and not on the actual idea. Therefore, a work of intellect is the transformation of the author's idea into a material work.
A work can be divided in two parts:

- the idea and the ability to translate it into a material *thing* which represents the abstract part of the work,

[1] Universal Declaration of Human Rights, 1948. Article 27.
[2] Concas, Alessandra. 2021. "Il diritto d'autore." Accessed March 28, 2022. https://www.diritto.it/il-diritto-dautore/.
[3] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 1.
[4] Italian Civil Code, March 16, 1942, n.262. Fifth Book, TITLE IX, Article 2575.

- its physical body [5] .

It is further important to define what is considered to be the concept of creativity.
The juridical concept of creativity in authors' rights is subjective and, regardless of an absolute innovation and originality of the work, it has always been considered necessary, for the protection of the authors' rights, that the ideas can be grasped in their individuality, as an object of personal elaboration of a creative nature by an author [6].

1.3: Works that are protected by authors' rights and collective works

Article 2, paragraph II of Law No. 633 states the types of works protected by authors' rights. These include[7]:

1) *literary, dramatic, scientific, didactic, and religious works whether in written or oral form,*
2) *musical works and compositions, with or without words, dramatic musical, and musical variations that themselves constitute original works,*
3) *choreographic works and works of dumbshow (the form of which is fixed in writing or otherwise,*
4) *works of sculpture, painting, drawing, engraving and similar figurative arts, including scenic art, even where such works are applied to industrial products, if their artistic value is distinct from the industrial character of the product with which they are associated,*
5) *architectural plans and works,*
6) *works of cinematographic art, whether silent or with sound, provided they are not mere documentaries protected in accordance with the provisions on Chapter V of Part II,*
7) *works of photographic art and works expressed with processes analogous to photograph provided they are not simple photographs protected in accordance with the provisions of Chapter V of Part II,*
8) *computer programs, in whatever form they are expressed, provided that they are original and result from the author's own intellectual creation. Ideas and principles which underly any element of a computer program, including those which underly its interfaces, shall be excluded from the protection afforded by this Law. The term "computer program" shall include their preparatory design materials.*

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[5] N.d. n.d. "Diritto d'autore – Cos'è e come funziona." Accessed April 12, 2022. https://www.consulenzalegaleitalia.it/diritto-autore/.
[6] Civil Cassation, February 17, 2010, First Section, Sentence N.3817.
[7] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 2.

Additionally, a work can be of collective nature. This means that it can be formed by more works assembled together or by specific parts of works of creative nature.
However, as stated in Article 3 of Law No. 633, these need to be justified by a specific literary, scientific, didactic, religious, political or artistic aim [8].

1.4: The figure of the musician

A musician is an artist who mainly takes part in self-employed activities (which are characterised by Article 2222 and the subsequent Articles of the Italian Civil Code) such as other professions of intellectual nature.

In fact, the profession of the musician is made up of intellectual components generated by talent and which are not part of the entrepreneurial figure characterised by Articles 2082 and 2195 of the Italian Civil Code where the realisation of a work depends upon the use of capital goods, work force and other external factors [9].

This does not occur with professionals and artists who depend on their creative ability resulting from experience throughout the years, their culture, their professionality, their technical abilities. These are all factors which rely on the artist's or professional's intellect which are immaterial.

1.5: Definition of an author

In Italy, the figure of the author is defined by the case law of Law No. 633 of April 22, 1941. According to Article 8, paragraph I of Law No. 633, an author is "*A person who is shown, in the customary manner, as the author, or is announced as such in the course of the recitation, performance or broadcasting of a work shall, in the absence of proof to the contrary, be deemed the author of the work*"[10].

[8] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 3.
[9] Migliorini, Federico. 2020. "Il Musicista: guida legale fiscale e previdenziale." Accessed April 28, 2022. https://fiscomania.com/musicista-guida-legale-fiscale-e-previdenziale/.
[10] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 8.

A musical author is one who composes a musical piece or who writes the lyrics to a song. The creation of a work of creative nature stemming from the intellect of an individual is a musical piece by which the author is, unless proven otherwise, the author of the work.
The author has the right to modify a work to the point it is no longer like the original work and still maintain the rights on the modifications, this is supported by Article 18 of Law No. 633 which regards "*all forms of modification, adaptation and transformation of a work*" [11].

In the case where a work is created by more individuals, the rights will be available to all co-authors in equal parts unless an agreement regarding the division of the rights has been styled and written (art. 10 l.d.a which states that "*In the absence of proof of written agreement to the contrary, the indivisible shares shall be presumed to be of equal value*") [12].

Furthermore, according to Article 2582 of the Italian Civil Code, the author has the right to withdraw a work from commerce if there are serious moral reasons. Nevertheless, the author needs to indemnify those individuals that have acquired the right to reproduce, diffuse, execute, represent or put in commerce the work [13].

1.6: The rights available to an author

The rights available to an author are divided in two main categories, these are:

- *Provisions relating to exploitation rights,*
- *Protection of rights in the work in defence of the person of the author (moral rights).*

Regarding the provisions relating to exploitation rights, a distinction, depending on the type of work, must be made between primary rights and secondary rights. Primary rights are those rights conferred to works that benefit from full protection by authors' rights whilst, on the other hand, secondary rights are those rights that are "added" to the main rights and have a shorter scope or duration[14].

[11] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 18.
[12] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 10.
[13] Italian Civil Code, March 16, 1942, n.262. Fifth Book, TITLE IX, Article 2582.
[14] Morbidi, Chiara. n.d. "Copyright e Diritto d'Autore." Accessed March 28, 2022. https://www.ufficiobrevetti.it/copyright/.

Focusing on primary rights, these give an author of a work the right to: publish a work in any form or manner (art. 12 l.d.a, paragraph I)[15]; reproduce a work through the multiplication of copies by any means and any other process of reproduction (art. 13 and art. 61 l.d.a.)[16]; transcribe the oral work (art. 14 l.d.a) [17]; perform or recite a work in front of the public (art. 15 l.d.a) [18]; diffuse a work by any means of diffusion at a distance (art. 16 l.d.a) [19]; distribute and market or make available a work by whatever means and for whatever purpose (art. 17 l.d.a)[20]; translate, elaborate and make any modifications, transformations or adaptations to a work (art. 18 l.d.a) [21]; rent out a work or make it available for a limited period of time for direct or indirect economic or commercial advantage (art. 18bis l.d.a)[22].

In accordance with Article 2577 paragraph I of the Italian Civil Code which regards the exploitation of a work in order to obtain an economic return, these proprietary rights differ from moral rights as proprietary rights are alienable (meaning the rights can be transferred) and transmissible (meaning that the rights can be inherited or are inheritable by established rules).

Regarding moral rights, these concern the right to be recognised as an author of a work and prevent that other individuals modify a work without the author's consent.

Therefore, the author has the right to:

- retain authorship of his work,
- claim paternity of the work at any time (art. 20 l.d.a) [23], therefore, being able to decide whether to publish a work or not.

This aspect of the right to paternity which is defined by Article 20 of Law No. 633 is in accordance with the exercise of the author's moral rights defined by Article 2577, paragraph II of the Italian Civil

[15] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 12.

[16] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 13 and Article 61.

[17] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 14.

[18] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 15.

[19] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 16.

[20] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 17.

[21] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 18.

[22] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 18bis.

[23] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 20.

Code which states, "*Even after the transfer of such rights, the author shall retain the right to claim authorship of his work and to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to, the work, which would be prejudicial to his honour or reputation*" [24]. In this case, this aspect of authors' rights is inalienable (cannot be transferred in any way) and cannot be prescribed (meaning that the right to a work cannot be claimed through a prescription). Lastly, the author has the right to decide whether to publish a work anonymously or reveal his identity (art. 21 l.d.a) [25].

1.7: Acquisition and transfer of the right

Article 2580 of the Italian Civil Code states that, "*The rights available to an author of a work belong to the author and his successors in title within the limits and for the effects set by special laws*" [26].
The right is acquired in an exclusive form when a work is created and constitutes the particular expression of an intellectual effort (art. 6 l.d.a. and art. 2576 c.c.) [27].
Therefore, if the right is not the result of a transfer from other individuals, the right is considered to be original. Whilst, on the other hand, if the right is transferred by individuals through acts between living beings or *mortis causa* (as a consequence of death), the right is considered to be derived.

The author's economic rights can be transferred at an economic return or free of charge, however, the right which is being transferred needs to be specified in the transfer agreement. As a result, the agreement leads to a total transfer of the right to the new buyer.

Article 109 of Law No. 633 states that, "*In the absence of agreement to the contrary, the transfer of one or more copies of the work shall not imply transfer of the exploitation rights afforded by this Law*" [28]. This therefore means that the rights available to an author remain in possession of the author even after the transfer unless specifically mentioned. For this reason, a distinction must be made among the transfer of the actual work *(corpus mechanicum)* and the author's rights on the work *(corpus mistycum).* A partial or complete transfer of the author's proprietary rights to the buyer needs to be fully agreed by a given contract.

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[24] Italian Civil Code, March 16, 1942, n.262. Fifth Book, TITLE IX, Article 2577.
[25] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 21.
[26] Italian Civil Code, March 16, 1942, n.262. Fifth Book, TITLE IX, Article 2580.
[27] Italian Civil Code, March 16, 1942, n.262. Fifth Book, TITLE IX, Article 2576.
[28] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 109.

A licensing agreement is a contract between two parties where the author (licensor) grants the buyer (licensee) the right to exploit the work for a given amount of time or for a given scope while still maintaining the full ownership of the work.
In exchange, the licensee will agree to the author's conditions regarding the exploitation of and use of the work and will make payments to the author (known as royalties) [29]. Licensing can be exclusive or not exclusive.

Both transfer agreements and licensing agreements can refer to all the rights available to an author or to part of these, however, an agreement regarding the transfer of the rights must be written out on paper, as stated by Article 110 of Law No. 633, "*The transfer of exploitation rights shall be set out in writing*"[30].

Therefore, moral rights are inalienable and are not transmissible whilst, proprietary rights can be freely transferred by their owners.

A recent example of the transfer of the author's rights regards Bob Dylan.
In fact, in 2020 Bob Dylan sold his songwriting catalogue to Universal Music Group for approximately over $300 million. The deal included 100 percent of his rights for all the songs in his catalogue and includes the control of each song's authors' rights and the income (royalties) he receives as a songwriter (the agreement does not include future works Dylan will write or unreleased songs). In this case, the transfer of the rights to Universal (meaning the transfer of ownership) means that Universal are free to use or modify the works in whichever way they want.

Among the reasons why various artists are selling their catalogues of songs is the fact that, due to the introduction of streaming platforms, selling records is increasingly becoming less and less profitable. Additionally, due to the Covid-19 pandemic, many record labels have turned to buying artist catalogues as a source of future revenues.

Furthermore, uncertainty regarding the profitability of records by artists who have been in the music industry for many years is another factor which is pushing these artists towards selling their

[29] N.d. n.d. "Licensing Agreements: The Basics." Accessed April 7, 2022. https://www.inc.com/encyclopedia/licensing-agreements.html.
[30] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 110.

catalogues as these are approximately between ten and eighteen times the value of their annual royalties.

Another factor is taxation, as royalties are considered as income and therefore face a higher taxation rate compared to the selling of the catalogue which is considered as capital gain.

1.8: Duration

Article 25 of Law no. 633 states, "*The exploitation rights in a work shall subsist for the lifetime of the author and until the end of the seventieth solar year after his death*"[31]. After this period of time, the work becomes of "*public domain*" and therefore works by authors who have been deceased for more than seventy years can be freely published.
If there are more authors of a work, the duration of the exploitation rights is determined by Article 26 of Law No. 633 which states, "*In the case of works referred to in Article 10 and of dramatic musical and choreographic works and works of dumbshow, the duration of the exploitation rights of each joint author and contributor shall be determined by the lifetime of the last surviving co-author*"[32]. This therefore means that the duration is extended until the seventieth year after the death of the last author.

In accordance with Article 3 of Law No. 633, the exploitation rights of each author regarding a collective work are determined depending on the lifetime of each author. The duration of the work is of seventy years from its first publication.

The same applies for works published anonymously or under pseudonym, however, if the author claims his identity before the end of the seventy years from the first publication of the work, then the exploitation rights will last until seventy years after the death of the author as determined by Article 25 of Law No. 633.

In the case that a work is published after the death of the author, the exploitation rights last for seventy years after the death of the author. Whilst in the case that the work is published after the period of

[31] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 25.
[32] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 26.

time where the author's rights are still valid and before this publication the work had never been published, the exploitation rights will last for twenty-five years after this first publication.

After the termination of the exploitation rights available to the author, the work ceases the right of exclusivity and can be used by the public even in absence of consent by the heirs or successors in title of the author [33].

In the case where the rights regarding a work are sold to a publishing company via a publishing contract, Article 122 of Law No. 633 states, "*A contract "by edition" shall afford the publisher the right to make one or more editions during a period of twenty years from the date of delivery of the completed manuscript*" and "*A publication contract "by period" shall afford the publisher the right to produce the number of editions he may consider necessary within the specified period of time, which shall not exceed twenty years*" [34].
Therefore, a publishing contract which has as object the exploitation rights of the author can last twenty years and, consequently, will not exceed the duration of the authors' rights stated in Article 25 of Law No. 633.

1.9: Principle of exhaustion

Another important concept to consider is the principle of exhaustion. Once the author decides to publish a work, he shall not be able to oppose the subsequent circulation of the work which can be sold or given to third parties without the author being able to oppose it (art. 17 l.d.a) [35]. This represents a limit on the right of exclusivity of the author.

However, in the event that the work was acquired by a legitimate buyer and this buyer has the right to sell the work, he is not allowed to copy, duplicate or rent the work.
For this reason, if one buys a CD which features a work on it, he is not allowed to duplicate or transfer the file which contains the work recorded on it, whilst, on the other hand, he is able to sell the physical CD to a new buyer[36].

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[33] N.d. n.d. "Diritto d'autore – Cos'è e come funziona." Accessed April 10, 2022. https://www.consulenzalegaleitalia.it/diritto-autore/.
[34] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 122.
[35] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 17.
[36] Morbidi, Chiara. n.d. "Copyright e Diritto d'Autore." Accessed April 28, 2022. https://www.ufficiobrevetti.it/copyright/.

1.10: The judicial protection of the author's exploitation rights

In the event of a suspected or actual violation, the author of a work has two instruments available in order to protect his authors' rights.

In the case of a suspected violation, the author can take legal action demanding for the assessment of his personal right and, as a consequence, the pronouncement of the prohibition to continue with the violation. This is referred to as an *action for declaratory judgement*.

On the other hand, in the case of an actual violation and the author wishes to prevent its continuation or repetition, he can take legal action with the same effects above-mentioned. This is referred to as an *interdiction action*.

CHAPTER II: CONTRACT LAW

2.1: Definition of a contract

A contract is a legally enforceable agreement between two or more parties by which persons have a legal obligation to perform (or not perform) a specific duty. It has the "*force of law between parties*"[37]. In the Italian legal system, the legal concept of contract is defined by Article 1321 of the Italian Civil Code which states, "*A contract is the agreement of two or more parties to establish, regulate or extinguish a patrimonial legal relationship among themselves*" [38].

Any agreement can be a contract, however, the relationship between the parties must be primarily of economic interest, thus meaning that the agreed performance needs to have (primarily) an economic content as stated by Article 1174 of the Italian Civil Code, "*The performance, which is the object of an obligation must be capable of economic evaluation and must correspond to an interest, even if non patrimonial, of the creditor*" [39].

Contracts lead to two different outcomes (which occur separately but can also occur together). These are[40]:

- A transfer of ownership or establishment or transfer property interests,
- The creation of an obligation.

2.2: Requirements

According to Article 1325 of the Italian Civil Code, the "cardinal" requisites of a contract are:

- the *agreement*,
- the *causa*,
- the *subject-matter,*
- the *form* (when prescribed by law, under penalty of nullity) [41].

[37] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1372.
[38] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1321.
[39] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE I, Article 1174.
[40] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[41] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1325.

The *absence, unlawfulness or defectiveness* of any of these elements will lead to the contract being either ***void*** or ***voidable*** as stated by Article 1418 paragraph II and Article 1425 of the Italian Civil Code[42].

2.2.1: Requisites of a contract – Agreement

The scope of a contract is to protect the interaction between two parties in which the agreement is at the core.
For this reason, the contract enforces the agreed performance by the parties which represents the will of the parties. Additionally, in order for an agreement to take place, the parties involved need to be persons with legal capacity to act and the expression of will or convergence of will (which may be explicit or tacit) need to lead to a binding contractual agreement.

2.2.2: Requisites of a contract – Causa

The causa is one of the fundamental requisites for the validity of a contract.

A definition of the causa does not appear in the Civil Code but can be considered as a legal justification.

There are two main theories which identify the concept of the causa, the *objective theory* and the *subjective theory.*

The **objective theory** states that the causa is the social economic function of the contract thus meaning that all typical contracts have a typical causa judged by the legislator whilst atypical contracts require an investigation regarding the worthiness of the interests. For this reason, all typical contracts have a causa whilst atypical contracts need to undergo a case-by-case investigation.
On the other hand, the **subjective theory** states that the causa is solely the ultimate scope of the parties[43].

Every contract needs to have a lawful causa.

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[42] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1418, Article 1425.
[43] Franceschetti, Paolo. 2016. "Causa del contratto." Accessed May 31, 2022. https://www.altalex.com/documents/altalexpedia/2016/02/29/causa.

According to Article 1343 of the Italian Civil Code, the causa is unlawful when it is contrary to mandatory rules, public policy or morals. In the event of an unlawful causa, the contract becomes null[44].

2.2.3: Requisites of a contract – subject-matter

According to Article 1346 of the Italian Civil Code, the subject-matter of a contract must be:

- **possible** (a transfer of an inexistent "thing" or a promise to do something which cannot be done is not binding),
- **lawful** (meaning that the subject-matter does not go against mandatory rules, public policy or morals),
- **determined** or **determinable** (meaning that the subject-matter must define the performance due or identify the "thing" that needs to be transferred) [45].

In the event that there are insufficient elements in order to determine the subject-matter, or the subject-matter is not explicitly or tacitly determined, the contract is considered to be void[46].

2.2.4: Requisites of a contract – Form

When referring to the form, the Italian legal system applies the principle of freedom of the form in which parties of a contract can freely decide the way in which to externalise their will. This allows for quicker and more efficient transactions and production of wealth to occur as parties, if they judge it to be the case, could for example decide to undertake a verbal agreement instead of a public deed which would take more time.
Therefore, if in accordance with Article 1325 of the Italian Civil Code, a form is not required on penalty of nullity, the parties are free to choose whichever form they prefer.

In the case that a written form is required on penalty of nullity, there are three typologies of written forms that can be obtained. These are[47]:

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[44] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1343.
[45] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[46] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1346.
[47] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.

a) *The simple written form:* this requires for a document to be signed by the parties involved and is often required for contracts that transfer the right of ownership (such as in the case of a transfer of ownership regarding a work) or property interests on immovables.
b) *The written form with authenticated signatures:* this occurs in the presence of a public official (usually a notary) and requires authentication of the signatory by the public official.
c) *The written form whose content has been authenticated (also referred to as a **public deed**):* This involves authentication of the signatures by a public official but also requires confirmation that the content of the document corresponds with the will.

2.3: The principle of Good Faith

The principle of good faith constitutes a generic duty which must preside over the general conduct of parties to act correctly (without malice) and in respect of the rules, even if not written, and of the other subjects.

"*In the conduct of negotiations and during the formation of the contract, parties are under a duty to conduct themselves according to good faith*" [48]. The Law constraints two or more parties involved in a negotiation to the duty of "fair dealing" (i.e. good faith) in which they must act fairly and honestly in starting negotiations, in withdrawing from them, when entering into a contract and when executing the due performances.

According to Article 1338 of the Italian Civil Code[49], each party has the duty to *inform* the other party of the existence of any reason for invalidity of the contract. If the party knowingly of the reason for invalidity, or, having to know the existence of the invalidity did not inform the other party, is obliged to compensate for the damage suffered by the other party for trusting, although no fault of his own, in the validity of the contract.

The violation of the principle of good faith during negotiations does not impact the validity of the contract, however, a contrary conduct to the principle of good faith leads to the above-mentioned liability for damages to the other party which is referred to as **pre-contractual liability.** The principle of good faith can be divided in two main categories, one in a (i) subjective sense and the other in an (ii) objective sense.

[48] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1337.
[49] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1338.

Good faith in a subjective sense refers to the ignorance of damaging a legally protected interest of others. In fact, according to Article 1147 of the Italian Civil Code[50], the possessor of good faith is whoever possesses while ignoring that he is damaging the right of others.

However, the principle of good faith does not justify the act if the ignorance depends on gross negligence by the offender. Good faith is presumed and it is sufficient that it was there at the time of the purchase.

Good faith in an objective sense refers to the duty of mutual fairness in relations between legal entities and is required by the legislator of the negotiation act. Objective good faith consists of two main duties, that of *loyalty* and that of *safeguarding.*

The duty of loyalty imposes parties to protect mutual trust, thus meaning to behave in a fair manner throughout the different phases of life of a contract and therefore not to induce or speculate on the misunderstandings of the counterpart.

On the other hand, the duty of safeguarding requires the contracting parties to make an effort aimed at protecting the interests that the counterpart intended to pursue through the contractual regulation, regardless of a legal obligation in this sense.

Good faith is also at the core of the interpretation of a contract as, in accordance with Article 1366 of the Italian Civil Code, the statements of the parties must be understood in a way an honest person acting in good faith would understand them.
This is further acknowledged through Article 1375 of the Italian Civil Code which states that parties are under a duty to "*perform the contract according to good faith*" [51].
For this reason, beyond the stated clauses of a contract, the contract obliges the parties to act in good faith throughout the whole contractual relationship and therefore, good faith "*integrates the effects of the contract*" [52].

[50] Italian Civil Code, March 16, 1942, n.262. Third Book, TITLE VII, Article 1147.
[51] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1375.
[52] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.

2.4: Termination of a contract

There are different ways to terminate a contract, one of which is, of course, **termination by performance** which therefore occurs after the carrying out of the agreed performance.
The contract has the force of Law between the parties and for this reason, it can only be dissolved by **mutual consent** or for a **cause permitted by Law** (Article 1372 c.c.) [53].

However, with the exclusion of contracts with *conditions subsequent, long-term contracts encompassing* ***a right of withdrawal and other forms as revocation and renunciation***[54]*,* there are three situations in which a termination may occur from a cause different from the accomplishment of a due performance.
These situations are:

- **non-performance** (Art. 1453 c.c.),
- **supervening impossibility** (Art. 1463 c.c.),
- **excessive onerousness** (Art. 1467 c.c.).

Regarding a situation of non-performance, pursuant to Article 1453 of the Italian Civil Code, when one of the contracting parties fails to fulfil its obligations, the other (*the innocent* party) may either request the fulfilment or termination of the contract. Regardless of the choice, the innocent party is entitled to compensation for damage[55]. Non-performance attributes the right to the innocent party to file a claim for the termination of the contract.

Pursuant to Article 1463 of the Italian Civil Code, in contracts with corresponding obligations, the part released for the supervening impossibility of the due performance cannot ask for the consideration and must return what it has already received[56].

In contracts with continuous or periodic performance meaning a deferred performance, if the performance of one of the parties is becoming excessively onerous due to the occurrence of extraordinary and unpredictable events, the party who owes this performance may request the dissolution of the contract (with the effects established by Article 1458 c.c.).

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[53] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1372.
[54] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[55] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1453.
[56] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1463.

However, the resolution cannot be requested if the excessive cost is part of the normal scope of the contract.
The party against whom the resolution is requested may avoid it by offering to change the terms of the contract fairly.

2.5: Atypical contracts

Atypical contracts are a typology of contracts which are not defined by Civil Law. They are created specifically by parties depending on their negotiation needs and therefore allow the parties to act freely choosing their terms without restrictions.

The freedom and lack of restrictions allows the parties to diversify between two main typologies of atypical contracts, these are, *mixed contracts* which are made up and based on elements from different typical contracts and *sui generis contracts* which are independent from other pre-existing contractual models.
Article 1322 of the Italian Civil Code refers to these types of contracts and allows for parties to determine the content of the contract within the limits imposed by the Law and corporate regulations. The parties may also conclude contracts that do not belong to the types having a particular discipline, as long as they are lawful and aimed at achieving interests which are worthy of protection according to the legal system[57].

2.6: Requirements

Atypical contracts need to fulfil the same requirements as typical contracts (the *agreement*, the *causa*, the *subject-matter* and the *form*) on penalty of nullity.
Atypical contracts further emphasise the concept of contractual autonomy which represents a legal translation of the idea of "Economic Liberalism".
The main point behind the idea of "Economic Liberalism" is that the role of legislative and executive powers is to dictate the rules and monitor for their non-infringement whilst not interfering in the actual negotiations and therefore allowing people to freely choose the economic ends they want to achieve[58].

[57] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1322.
[58] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.

A transfer of copyright is an example where there are few rules and the parties are left with the freedom of choosing an atypical contractual model[59]. In fact, Article 107 of Law No. 633 states that, "*The exploitation rights belonging to the authors of intellectual works, together with neighbouring rights of an economic character, may be acquired, sold or transferred in any manner or form allowed by law, subject to application of the provisions contained in this chapter*" [60].

2.7: Music Publishing Contract

A music publishing contract (*Contratto di Edizione musicale* in Italian) is a type of atypical contract which aims to regulate the transfer of exploitation rights of one or more works.
This type of contract differs from the typical publishing contract which refers to the publication of works for printing and is defined by Article 118 of Law No. 633 which states, "*The contract by which the author grants to a publisher the exercise of the right of publication of an intellectual work by way of printing, at the expense of such publisher, shall be governed, in addition to the provisions contained in the Codes, by the general provisions of this Chapter and by the special provisions that follow*"[61].
As a consequence, typical publishing contracts cannot be used to regulate and assign the exploitation rights on a musical work. For this reason, due to the author's interest in the work's exploitation in order to obtain an economic return, the music publishing contract allows the creator of a work to assign all exploitation rights on the musical work to a third party (referred to as the publisher) which in change will compensate the author with remuneration arising from the use of the musical work. Therefore, the main function of the music publishing contract is to allow the musical work to reach a larger audience through distribution and marketing which without these would not have allowed the work to obtain the desired economic returns.

The transfer occurs when the publisher (often a specialised firm) acquires the exploitation rights on the work which allow the publisher to determine the success of the work but also to guarantee the transferring author a compensation.

The publisher's job is to promote the musical work, therefore, he will "publish" the work on the market with the aim to increase economic returns and will recognise the author with a share of the

[59] Concas, Alessandra. 2021. "Disciplina dei contratti atipici." Accessed May 22, 2022. https://www.diritto.it/contratti-atipici-definizione-caratteri/.
[60] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 107.
[61] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 118.

proceeds arising from the exploitation (in addition to the commitment to have a minimum number of copies of the work published).

There are many uses for a musical work, two of the most common are (i) the **mechanical reproduction** (referred to as *Diritto di riproduzione meccanica – D.R.M.*) and (ii) **performance in public** (referred to as *Diritto di esecuzione musicale – D.E.M.*).

2.7.1: Declaration of the work and distribution of rights

In Italy, the Law provides that owners can collect their rights mainly through the S.I.A.E. which stands for "*Società Italiana degli Autori ed Editori*".
The job of the S.I.A.E. is to authorise the exploitation of the musical work, collect the proceeds that arise from the exploitation of the work and distribute them to those who have a right (the authors and publishers).
The S.I.A.E. allows authors and publishers to agree on the shares of D.R.M. and D.E.M. that they will each get (although a minimum share of D.R.M. and D.E.M. will nonetheless be reserved for the authors who, if not, would not receive any compensation from the exploitation of the works).
In the event that a music publishing contract is stipulated after a musical work has already been deposited at the S.I.A.E., a new declaration needs to be deposited with the indication of how the D.R.M. and D.E.M. have been divided between the author and publisher.

The music publishing contract may also regard works that not yet have been created. In fact, a publisher can make a binding agreement with an author which obliges the author to produce a certain number of works in a given time period and obliges the publisher to publish them.

2.8: Collecting societies

A collecting society is an organisation that exercises the author's patrimonial rights on behalf of a plurality of owners with respect to users of a work. These organisations (such as the S.I.A.E. in Italy) monitor the exploitation of a work and make sure that all proceeds reach those who hold a right and control the unauthorised uses of the work.

A collecting society stipulates licenses (where the licenses are usually a standard contract which covers a large number of works – articulated by Article 1341 and 1342 c.c.)[62] for the exploitation of the works in their catalogue[63].

Collecting societies are entities that account for the protection and exercise of the authors' rights and, according to Article 180 of Law No. 633, "*the right to act as an intermediary in any manner whether by direct or indirect intervention, mediation, agency or representation, or by assignment of the exercise of the rights of reproduction, performance, recitation, broadcasting, including communication to the public by satellite, and mechanical and cinematographic reproduction of protected works, shall belong exclusively to the S.I.A.E. and to other bodies of collective management of this to the legislative decree 15 March 2017, n. 35*" [64]. However, as stated in paragraph IV of the same Article[65], the author is not obliged to contact a collecting society for the management of his rights. Therefore, he is also allowed to exercise his rights individually.

Additionally, nowadays, an author has more freedom to choose among different collecting societies entitled by the Law to manage his rights. In fact, previously to the law decree 16 October 2017, n. 148 (which allowed the intervention also by private collecting societies to act as intermediaries of authors' rights – provided they are not for profit), the S.I.A.E. was the only collecting society entitled to manage the rights of an author, thus meaning that the Law allowed the S.I.A.E. to be in a position of dominance and thus act as a monopoly due to its being the only entitled actor on the market. The modification of Article 180 of Law No. 633 by the law decree 16 October 2017, n. 148 requires the new entities to adhere to the requirements fixed by Article 8 of the legislative decree 15 March 2017, n.35.
Furthermore, according to Article 40 of the legislative decree 15 March 2017, n.35, the sector for the management of rights by collecting societies in Italy is currently monitored also by the Agcom (*Autorità per le Garanzie nelle Comunicazioni*).

[62] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1341, Article 1342.
[63] Meo, Carlo. 2018. "Società di gestione collettiva dei diritti d'autore." Accessed May 25, 2022. https://www.treccani.it/enciclopedia/societa-di-gestione-collettiva-dei-diritti-d-autore_%28Diritto-on-line%29/.
[64] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART FIVE – PUBLIC LAW ENTITIES FOR THE PROTECTION AND EXERCISE OF AUTHORS' RIGHTS, Article 180.
[65] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART FIVE – PUBLIC LAW ENTITIES FOR THE PROTECTION AND EXERCISE OF AUTHORS' RIGHTS, Article 180.

2.8.1: Distribution of the rights and distribution of the proceeds

Collecting societies such as the S.I.A.E. distribute rights in three main categories, these are:

1) **Direct analytical distribution** (*ripartizione analitica diretta*) where the proceeds are distributed to the entitled parties on the basis of the musical program (*borderò*) complied by those who performed the works in front of the public.
2) **Indirect distribution** (*ripartizione indiretta*) in case of technical-economic impossibilities, the proceeds collected are distributed to associates whose works have been used in the same period and have similar characteristics but are from a different sector (this method has often been criticised by small/medium authors due to its favouring of the largest associates).
3) **Sample distribution** (*Ripartizione a campione*) where distribution occurs based on a sample survey for a specific category of works

A collecting society will collect and distribute the proceeds arising from the exploitation of a work to authors and publishers, nevertheless, it will keep a commission from the proceeds in order to fund its activity.

2.8.2: Division of the proceeds between authors and publishers

When an author and a publisher deposit a work to a collecting society (in this case the S.I.A.E.), a distinction between the roles and an allocation of the proceeds must be made (if also other figures such as an arranger contributed to the final result of the work, these are also entitled to a part of the proceeds).

When depositing an original work, the possible roles that can be attributed are:

- **CO** (Original Composer of the music – *Compositore Originale*)
- **AO** (Original Author of the lyrics – *Autore Originale*)
- **EO** (Original Publisher – *Editore Originale*)
- **CA** (Composer and Author – *Compositore ed Autore*)
- **EL** (Works Elaborator – *Elaboratore Opere*)
- **AR** (Arranger – Arrangiatore)
- **SR** (Sub-Arranger – *Sub-arrangiatore*)
- **SA** (Sub-Author – *Sub-autore*)
- **AD** (Adapter of the lyrics – *Adattatore del testo*)
- **TR** (Translator of the lyrics – *Traduttore del testo*)

- **EC** (Ceding publisher – *Editore Cedente*)
- **AM** (Administrator – *Amministratore*)
- **SE** (Sub-Editor – *Sub Editore*)
- **PE** (Artistic Performer – *Esecutore Artistico*)

On the deposit, there must be an indication of the share of the D.E.M. and D.R.M. for these categories (of course not all categories need to be used).

Regarding the D.E.M. shares (right to perform in public), these are expressed in twenty-fourths. The minimum shares for a work without lyrics and without publisher are of 24/24 for the composer (CO) whilst for a work without lyrics but with a publisher 12/24 for the composer.

On the other hand, for a work with lyrics without publisher the shares are 8/24 for the composer and 6/24 for the author (AO) whilst for a work with lyrics but with a publisher the shares are 7/24 for the composer and 3/24 for the author.
If there is more than one composer or author, then each one of them cannot receive a share which is less than 1/3 of the share of the others in the same category thus meaning that if there are two authors and one of these receives a share of 9/24, the other author cannot receive a share less than 3/24.
There is also a maximum share for publishers and this is of 12/24 for both works with and without lyrics.

Regarding the shares of D.R.M. (right of mechanical reproduction), these are calculated as a percentage. The minimum share for a work without lyrics and without publisher is of 100% for the composer whilst for a work without lyrics but with a publisher the minimum share is 30% for the composer. Regarding a work with lyrics without publisher the shares are 30% for the composer and 20% for the author whilst for a work with lyrics and with a publisher the shares are 20% for the composer and 15% for the author. The maximum shares for publishers are 70% for works without lyrics and 65% for works with lyrics.

2.8.3: Royalties

In the field of authors' rights, a royalty is a type of variable remuneration reserved for the creator of a work which is the result of intellectual activity as compensation for the commercial exploitation of the work. The amount received depends on the success of the work on the market.

Royalties are therefore collected and distributed by collecting societies to those who have the right to receive them.

CHAPTER III: OWNERSHIP

3.1: The right of ownership

Pursuant to Article 832 of the Italian Civil Code, the right of ownership is defined as "*The owner has the right to enjoy and dispose of things fully and exclusively, within the limits of and observing the obligations established by law*" [66].

Two important elements of this Article are the idea that the owner has the absolute and exclusive right to enjoy and use the *thing* in his possession, whilst, nevertheless, this enjoyment and use is constrained to limits set by the Law[67].

Furthermore, it is important to define the concepts of "*enjoyment*" and "*disposition*".
Enjoyment refers to any manner by which to "*extract any utility from the thing, either directly or indirectly through third parties*" [68].
Disposition refers to the ability to decide and actuate "*material operations on the thing*" [69]. Meaning that the owner has the freedom to transfer or manage how he prefers his property.

Additionally, when referring to a *property*, it is important to understand that properties are "*things which may be the subject matter of ownership.*" (Article 810 c.c.)[70].

Nonetheless, it is important to understand whether a musical work fits into the category of a *thing*. Not necessarily does a *thing* need to be tangible or *perceptible to the five senses*[71] (as in the case of energy), yet, a *thing* is defined as the "*material objects that surround us*" [72] and pursuant to Articles 816-820 of the Italian Civil Code, it is clear that a *thing* is strictly correlated to the concept of *material reality* and therefore refers to concrete matter.

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[66] Italian Civil Code, March 16, 1942, n.262. Third Book, TITLE II, Article 832.
[67] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[68] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[69] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[70] Italian Civil Code, March 16, 1942, n.262. Third Book, TITLE II, Article 810.
[71] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.
[72] Iudica, Giovanni, and Paolo Zatti. 2019. *LANGUAGE AND RULES OF ITALIAN PRIVATE LAW: AN INTRODUCTION, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer.

However, due to a musical work being the result of creative intellectual activity and, as already analysed in Chapter I, the process of creative intellectual activity leads to the creation of a material work and therefore makes a musical work an intangible *thing.* Consequently, pursuant to Article 2575 of the Italian Civil Code, these intangible *things* that are the result of creative intellectual activity form the object and are therefore protected by the authors' rights.

Nevertheless, it is important to specify that there is a distinction between the right of ownership and authors' rights. In fact, the transfer of ownership over a work does not mean that the new proprietor will achieve all the rights available to the author of a work. As already mentioned, Article 109 of Law No. 633 states that unless proven by an agreement, the transfer of a work does not provide for an obligatory transfer of the exploitation rights (and when an agreement over the transfer of the exploitation rights is involved, this needs to be in written form – Article 110 of Law No. 633).

Therefore, for example, if Person A buys a painting from Person B (who is the author of the work) and decides to reproduce it suppose by means of printing an image of the painting on t-shirts to sell at his personal art gallery, if Person A did not ask permission for the reproduction of the work to Person B (the author), then this results in a violation of the authors' rights.
Therefore, the right of ownership on the painting of Person A is a separate concept from that of the authors' rights.

Authors' rights are not ownership but when referring to authors' rights, the concept of ownership will be involved due to its close relationship with the rights available to the author of a work.

3.2: Intellectual property

It is important to understand the concept of intellectual property when referring to intangible creations which are the result of creative intellectual activity. Intellectual property (IP) is in fact the category of properties (*things*) which are not physical in nature (are *intangible*) whilst intellectual property rights are groups of rights which are exclusively reserved for the various works of intellect.

Intellectual property can be subdivided in three main areas (and each requires a different treatment):

1) Patents which protect new ideas/innovations,
2) Registered trademarks which protect symbols aimed at distinguishing companies,
3) Authors' rights which protect the artistic expression.

Furthermore, due to the increased digitalisation over the years, creative works stemming from intellectual activity are facing an increase in the de-materialisation of the work in which the work is becoming more and more independent from its physical support (suppose an article and its physical support, a newspaper).
This consequently leads to the need for a further differentiation between the ownership of a work and the ownership of the physical support.

3.2.1: Transfer of intellectual property rights

The transfer of intellectual property rights to a third party may occur by means of a license or through a permanent transfer of the exploitation rights to the third party pursuant to the established conditions by the contract.
These conditions can indicate the duration (in the event of a license), any limits imposed on the exploitation and the remuneration (royalties) – which may be variable or fixed stemming from the use of the work.

3.3: Types of ownership for a musical work

The figures protected by authors' rights constitute three main categories, these are:

- the author of the musical composition,
- the artist who interprets and performs the work,
- the producer of the phonogram.

The author benefits from full protection of the authors' rights whilst the artist who interprets and performs the work and the producer of the phonogram benefit from *related rights* (these are rights that are added to primary rights, they have a shorter duration and are less relevant). Article 73, paragraph I of Law No. 633 states, "*The producer of phonograms, as well as the performers and performing artists who executed the performance recorded or reproduced on those devices, shall be entitled, independently of the rights of distribution, rental and lending belonging to them, to remuneration in exchange for the utilisation, with gainful intent of the record or other device for broadcasting by radio or television, including communication to the public by satellite, in cinematography, in public dances, on public premises and on the occasion of any other public utilisation of the devices. The remuneration is recognised for each phonogram used to the producer*

of the phonogram and to the performing artists. The exercise of this right belongs to each of the companies that act as an intermediary for the related rights of the authors' rights" [73].

It can be interpreted that a music recording is subject to two different typologies of ownership:

- **ownership of the musical work** which refers to the ownership of the composition and the lyrics of the musical work before it becomes a sound recording (usually owned by songwriters), and,
- **ownership of the first sound recording** which is referred to as the *master* (from which all reproduction and commercialisation on streaming platforms or on CDs derives). A *master* can also be recorded by the author himself, thus meaning that the author would become a producer of the phonogram and, therefore, producer of himself.

Often, through the use of a publishing contract, recording labels acquire the exploitation rights on a *master* in exchange of royalties destined to the author.

3.4: Practical case: Taylor Swift's music ownership controversy

Although Taylor Swift's music ownership controversy applies to the U.S. Jurisdiction and therefore to U.S. Copyright Law (which features differences to the Italian interpretation of the Authors' Rights as stipulated by Law No. 633), it can be relevant to the scope of this research to analyse the case and, potentially, seek for an adequate interpretation in accordance with Law No. 633 (Italian equivalent of U.S. Copyright Law).

3.4.1: Background story

Taylor Swift signed her first record deal with Big Machine Records (an American independent record label founded by Scott Borchetta) in 2005.
At the time, Swift was the first signing artist for the label and signed a 13-year contract which gave the ownership of the masters for her first six studio albums to Big Machine Records in exchange of a given amount of remuneration in advance.

Over the years, Swift managed to complete and release the six studio albums with Big Machine Records, "*Taylor Swift*" *– released in 2006;* "*Fearless*" *– 2008;* "*Speak Now*" *– 2010;* "*Red*" *– 2012;* "*1989*" *– 2014;* "*Reputation*" *– 2017.*

[73] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART ONE – PROVISIONS ON AUTHORS' RIGHTS, Article 73.

To the present day, Swift is considered as one of the most successful artists in the music industry and currently holds eleven Grammy Awards.
Due to Swift being the main songwriter of her works, this allowed her to detain the publishing rights to the six albums. In fact, this is an example of split ownership of a musical work as Big Machine Records have ownership of the phonogram (the *master*) whilst Swift owns the actual musical composition.

In 2018, before the expiration of the contract, Swift's legal team proposed to acquire the masters from Big Machine Records, however, Big Machine answered that they would have accepted the transaction only had Swift accepted to sign a new contract binding her for another ten years and transferring ownership of her future masters (for the given ten-year time period) to Big Machine. For every new studio album she would make, she would receive ownership of the master recording for one of her old six studio albums.
Swift did not accept the conditions set by Big Machine and in 2018 (after the expiration of the Big Machine contract), Swift signed a new record deal with Republic Records (which is part of Universal Music Group – UMG).
The unmatched success of Swift in the music industry led to greater leverage and, therefore, greater negotiating power when agreeing on her new contract.
In fact, the contract with Republic Records agreed that Swift had full ownership of her future master recordings, therefore, Swift is now fully owning both the master recordings and the rights on the musical compositions for all of her new works (from an economic standpoint, this has a massive impact in terms of economic returns for the artist herself).
Nonetheless, in 2019, Big Machine Records was fully acquired by Ithaca Holdings LLC for an estimated $330 million. A company founded by Scooter Braun (an American businessman and talent manager known for managing artists of the calibre of Kanye West, Justin Bieber, Ariana Grande and many more).
In terms of ownership of the master recordings for her previous six studio albums nothing changed as these were still in possession of Big Machine and Swift had no control whatsoever over them. Nevertheless, the dispute was the result of two main events. The first one being that Swift and her team tried many times to acquire ownership of her master recordings but always faced binding counteroffers by Big Machine, the second reason being the acquisition by Scooter Braun himself (considered to have acted against Swift over the years and attempted to bring down her work). In fact, Scooter Braun took part in the creation of Kanye West's music video for his song "*Famous*" which

features a naked mannequin with the intentional resemblance of Taylor Swift (alongside other naked mannequins resembling famous figures).
Furthermore, Swift accused Braun of being a "*manipulative bully*" and Borchetta of "*betraying her loyalty*" [74].
The events that occurred afterwards led to further complications in the dispute. In fact, according to Swift, Braun and Borchetta (as owners of the master recordings) did not allow her to perform her older songs and would give permission to doing so only on conditions that she would not re-record new versions of her older songs (Big machine argued the contrary).
In 2020, Big Machine released a live performance recording of a Taylor Swift concert she did in 2008 which Swift claims to not have given consent to.

3.4.2: Swift's response

Swift's response to the dispute was to re-record all her first six studio albums in order to have ownership of the master recordings of the works and be able to have full control over their exploitation.
Swift was able to do this due to her being the songwriter in all of the works and therefore having publishing rights on the works thus allowing her to create a "*cover*" version of her older songs and make new phonograms which would prevail over the original master recordings. In fact, had she not been a songwriter and simply a performing artist, agreements between record labels and artists provide for the impossibility of artists to re-record works for a given period of time.

3.4.3: Sale of Swift's original masters

Before re-recording her six studio albums, Swift attempted to buy back one last time the ownership on her original masters but Braun agreed to do so only to the conditions that Swift signed a Non-Disclosure Agreement which required her to only speak positively on Braun, Swift did not agree.
Consequently, in late 2020, Braun sold the ownership of Swift's original masters to Shamrock Holdings (and according to Swift, Braun influenced Shamrock to avoid notifying Swift until the end of the transaction).
Swift as a consequence proceeded with commencing to re-record her six albums and signing the new versions of the original works with "*(Taylor's version)*" as a means of identification.

[74] Kreps, Daniel. 2019. "Taylor Swift: Scooter Braun's Acquisition of Back Catalog 'My Worst Case Scenario'." Accessed May 28, 2022. https://www.rollingstone.com/music/music-news/taylor-swift-scooter-braun-big-machine-worst-case-scenario-853836/.

3.4.4: Analysis of the case under Italian Law

Firstly, it appears hard to identify evidence which would support the annulment of the acquisition of Big Machine Records by Ithaca Holdings LLC or evidence which would lead to the publishing contract between Big Machine Records and Taylor Swift to be judged as null and void. Nevertheless, considerations on different scenarios and their potential outcomes can be relevant to further analyse and understand this case under Italian Law.

A first interpretation of the case draws the attention towards the principle of good faith. In fact, as already mentioned, a violation of the principle of good faith leads to pre-contractual liability.
In the case of objective good faith (when referring to the duty of mutual fairness in relations between legal entities), the duties of loyalty (behaving in a fair manner) and safeguarding (protecting interests of counterpart), it can be argued that Borchetta could have violated the duty of loyalty towards Swift and the duty of safeguarding her. In fact, Swift argued that Borchetta was well aware of her dispute over the years with Braun as she claimed that, "*Any time Scott Borchetta has heard the words 'Scooter Braun' escape my lips, it was when I was either crying or trying not to*"[75].

Additionally, it can be argued that the principle of good faith was further violated when, as the expiration date of the publishing contract between Big Machine and Swift approached and Swift attempted to buy back her masters, Big Machine accepted to agree only on conditions of her signing a binding new contract for future studio albums which allowed her to obtain ownership of one master at a time (of her old masters) in exchange of every new album she recorded (of which ownership of the new masters would be of Big Machine).
In this case, it can be argued that Big Machine did not respect the duty to safeguard the interests of the counterparty (Swift) and therefore present a violation of the principle of good faith.
Furthermore, Swift attempted various times to acquire the masters from Braun but, as already stated before, he only agreed to do so on conditions that she would sign a Non-Disclosure Agreement which required her to only speak positively of him and therefore violating the duty of safeguarding the interests of the counterpart (Swift).

Nonetheless, if a party claims a violation of good faith and therefore refers to the lack of application of Article 1337 of the Italian Civil Code, "*In the conduct of negotiations and during the formation of*

[75] Blynn, Jamie. 2019. "Taylor Swift's Former Label Owner Scott Borchetta Fires Back After She Accuses Scooter Braun of "Bullying"." Accessed May 28, 2022. https://www.eonline.com/news/1053413/taylor-swift-s-former-label-owner-scott-borchetta-fires-back-after-she-accuses-scooter-braun-of-bullying.

the contract, parties are under a duty to conduct themselves according to good faith"[76]. by a counterpart, it must be ready to prove the violation and prove the damages suffered. For this reason, it is likely that Swift would only be able to achieve some sort of compensation for the damages incurred and not achieve, what would be her ultimate goal, the acquisition of her original masters and prevention of acquisition of Big Machine by Ithaca Holdings LLC.

Another scenario which could occur makes reference to Article 133 of Law No. 633 which states, "*If the work does not find a sufficient market at the price fixed, the publisher, before selling the remaining copies at a reduced price, or sending them to the shredder, shall ask the author if he wishes to acquire the copies at a price calculated on the basis of the amount obtained by sale at such a price or as use by the shredder*"[77].

In fact, Ithaca Holdings LLC (Braun's company) sold Swift's masters to Shamrock for an approximate fee of $300 million[78], yet, "*some insiders speculate the value could be as high as $450 million once certain earn-backs are factored in*"[79]. This shows evidence that the masters were sold at a lower price, however, Swift claims to not being notified of a potential acquisition by Shamrock and was not given the chance to acquire them at the same price, she claims to only have found out once the transaction took place[80].

Furthermore, this could be the grounds for a demand of termination of the publishing contract. As stated by Article 134 paragraph V of Law No. 633, "*Publishing contracts shall terminate: in the event of termination of the contract as provided in Article 128 or in the case referred to in Article 133*"[81].

Another more complex and hard to achieve scenario would make reference to Article 134 paragraph IV of Law No. 633 which states that, "*Publishing contracts shall terminate: if the work cannot be published, reproduced or marketed by reason of a judicial decision or a provision of law*" [82].

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[76] Italian Civil Code, March 16, 1942, n.262. Fourth Book, TITLE II, Article 1337.

[77] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 133.

[78] Haden, Jeff. 2020. "Taylor Swift's Masters Just Sold for $300 Million, Revealing a Brutal Truth About Business." Accessed May 28, 2022. https://www.inc.com/jeff-haden/taylor-swifts-masters-just-sold-for-300-million-revealing-a-brutal-truth-about-business.html.

[79] Halperin, Shirley. 2020. "Scooter Braun Sells Taylor Swift's Big Machine Masters for Big Payday." Accessed May 29, 2022. https://variety.com/2020/music/news/scooter-braun-sells-taylor-swift-big-machine-masters-1234832080/.

[80] Hirwani, Peony. 2021. "Taylor Swift's Wildest Dreams could overthrow the original version on UK chart." Accessed May 29, 2022. https://www.independent.co.uk/arts-entertainment/music/news/taylor-swift-wildest-dreams-uk-chart-b1923948.html.

[81] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 134.

[82] Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021), PART THREE – COMMON PROVISIONS, Article 134.

In this case, if Swift were to identify a situation which would lead to a Judge overruling the validity of the publishing contract and decide that a work cannot be published, reproduced and marketed, she could demand for the termination of the publishing contract.

Nevertheless, this is a more complicated situation and would require Swift and her team to come up with a strong argument in favour of why a Judge would consider the situation one needing to be prevented.

CHAPTER IV: MUSICAL OWNERSHIP IN THE CONTEXT OF THE BLOCKCHAIN

4.1: Definition of the blockchain

The blockchain is a system which can be referred to as a digital ledger that stores all sorts of data. Transactions are recorded on "*blocks*" which are chronologically linked to one another. Each block features a date and data regarding the transaction (both of tangible and intangible assets).

The blockchain has a decentralised structure and once information is recorded on a block, this appears on all computers in the network, therefore, the blockchain allows for secure verification and traceability of all transactions recorded on it.
For example, suppose Person A wants to sell his painting to Person B by means of the blockchain, a new block would be created storing information regarding the transaction and the transfer of ownership of the painting from Person A to Person B, the fee and the date of the transaction.

4.1.1: The importance of the blockchain

The blockchain is of significant importance mainly because of its transparency. In fact, the digital ledger is completely immutable and provides immediate information and traceability of stored transactions and, as stated before, this appears on all computers connected to the network therefore transactions are secure.

Additionally, due to its digital nature, the blockchain is much more efficient and accurate due to the removal of human involvement and features significant cost reductions as third-parties acting as intermediaries are not needed anymore.

4.1.2: Types of assets traded on the blockchain

A **fungible asset** refers to an asset that can be interchanged for another of the same kind (equal value). For example, a 10 dollar banknote can be exchanged for another 10 dollar banknote.

A **non-fungible asset** refers to a unique asset that cannot be copied, substituted or subdivided, it is one of a kind. For example, a 10 dollar banknote with a unique serial number for which collectors are

willing to pay 500 dollars. The 10 dollar banknote is unique and worth more than a normal 10 dollar note[83].

The typologies of assets traded on the blockchain can be visualised in the matrix below (Figure 1)

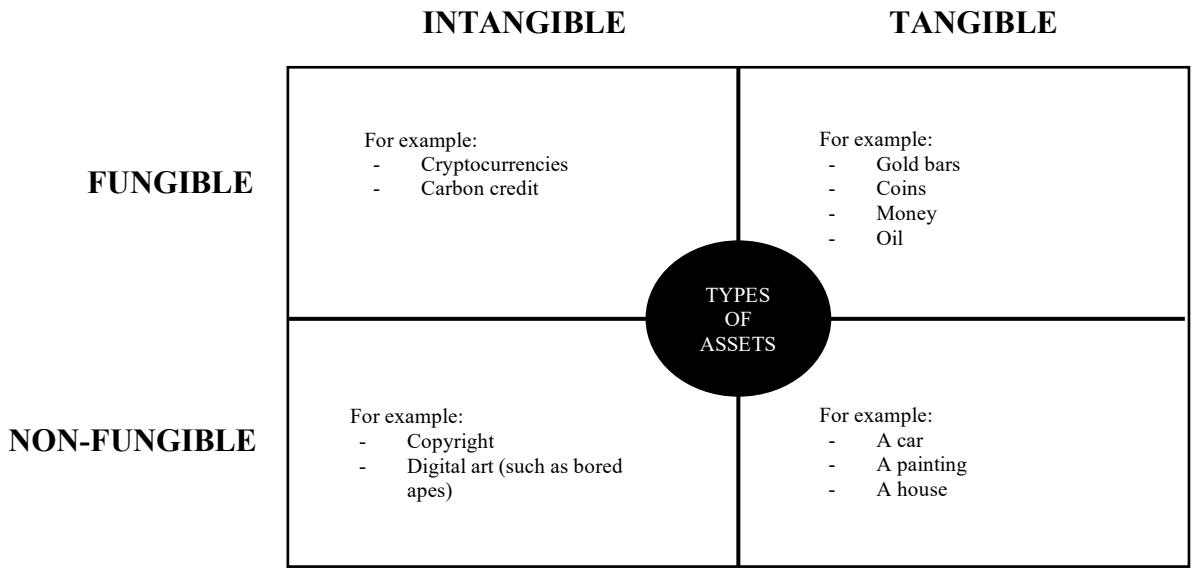

Figure 1: Types of assets traded on the blockchain

4.2: Non-fungible tokens (NFTs)

A non-fungible token (NFT) is a digital token which represents either a tangible or intangible asset which is traded on the blockchain (usually with cryptocurrencies).
As these are non-fungible, these tokens are one of a kind. People trade and speculate on NFTs through the blockchain. An example of an NFT could be a digital book or a physical painting.

Over the years, people have expressed mixed feelings regarding the actual utility of NFTs, in fact, taking an example of a digital painting, suppose Person B purchases from Person A a digital painting for a fee equal to x. The transaction is recorded and Person B becomes the sole proprietor of the original, unique digital painting. Nevertheless, Person B cannot exclude other people from viewing an image of the same digital painting online and possibly downloading the picture to use as a screensaver (although in a lower quality as it is not the original). However, the ownership of the

[83] Arbonés, Marc. 2022. "What is an NFT? A beginner's guide to Non-fungible tokens." Accessed May 29, 2022. https://www.altcoinsmastery.com/what-is-an-nft/.

digital painting is solely of Person B. Therefore, one may question the utility of acquiring the digital painting potentially for a large fee just for the satisfaction of being the only person in possession of the right of ownership (and therefore the possibility to do whatever one wants with it) of the digital painting. The purchase could have made more sense had there been the possibility to exclude others from using it.

4.2.1: Music NFT ownership

As the world strides towards digitalisation, it is interesting to consider the possibility of a future where musical ownership and the blockchain may interact more than they already do.

Although it can be argued that musical ownership and NFT projects still require some clarity from a legal standpoint, some artists have already started working on projects involving a transfer of ownership for their works.

One possible scenario for an NFT project would involve the transfer of the exploitation rights on a master recording. In this case, the buyer of the NFT would acquire ownership of the phonogram and consequently would benefit from the future remuneration arising from royalties reserved for the owner of the master recording.
Similarly to an investment, the buyer would acquire the right (the NFT) for a given fee and whether this will become a profit or a loss in the future will depend on the success of the song.
There could be one sole proprietor for the acquisition of the exploitation rights on the master recording or even more than one. This would be the case if the NFT were to involve a percentage of the exploitation rights on the master recording. For example, Artist X decides to record one of his works and therefore produces a phonogram. This master recording was entirely funded by himself, therefore, he owns the exploitation rights on the master recording. Nevertheless, Artist X decides that he wants to split ownership of the master recording with other people with the aim to raise funds for future recordings of other works. As a consequence, Artist X decides to keep 70% of the exploitation rights to himself and sell the remaining 30%. He therefore creates an NFT project where three potential buyers can acquire 10% each of the exploitation rights on his master recordings. Person A, Person B and Person C each acquire the 10% stake for a fee equal to x thus entitling them to all the remuneration (for 10% of the master recordings) stemming from the exploitation of the work. There are various reasons for such an NFT project, these include the possibility to finance the artist's career such as videoclips for a song or to cover the costs of recording in a studio and many more. Additionally, the artist can benefit from increased publicity which he doesn't need to do on his own as the other owners

of the master recording have an incentive to increase sales and success of the work as this would boost their future economic returns (because of royalties).

It is interesting to question whether this could be the future of the music industry.
Whether exploitation rights on a master recording instead of ending in the hands of record labels who, in some cases, abuse of their position of dominance against a new artist who still doesn't have the contractual leverage to negotiate on less binding or unfair terms and end up having significant control over the work of an artist, could actually remain under the control of the artist thus giving the artist more control over the exploitation of his work (provided that there are clear contracts) alongside significantly higher returns.

If the music industry were to move towards this change, record labels would for sure have less dominant positions in the industry and artists would have greater contractual leverage but also a greater ability of control over the exploitation of their works.

However, this is still a scenario which would require time and clearer rules. In fact, to the present day, many NFT projects transferring ownership of a musical work lack clarity and contractual security from a legal standpoint.
There appear to be many errors with certain projects simply because of lack of legal knowledge regarding this field.
Many projects in fact, erroneously transfer the wrong rights associated to the exploitation rights of a work.
Furthermore, different Jurisdictions have different laws regarding the authors' rights.

4.2.2: Practical case: The Weeknd's NFT project

In 2021, Canadian singer and songwriter The Weeknd released his first-ever NFT project. The collection created in collaboration with Strange Loop Studios featured limited edition artworks and an unreleased song.

The auction for the NFT took place on the Niftey Gateway platform and involved two sales. The first being the sale of three artworks and a filtered segment of the song, whilst the second sale featured a one of a kind piece with the full song which will not be released on any platform. For the second sale, the buyer will in fact become the sole proprietor of the work besides The Weeknd.

The auction was a success for The Weeknd as he made a total of $2.29 million. Furthermore, from a marketing point of view, being one of the first major worldwide artists to undertake an NFT project for sure has attracted the attention of the world.
Additionally, once again, due to The Weeknd's immense success and major presence in the music industry, this could in fact act as an incentive for other artists to take part in an NFT project.

CONCLUSION

After having made an analysis of the application of Contract Law and laws regarding Ownership to the Authors' Rights and how these impact the activity of a musical author, it is possible to draw some conclusions.

Firstly, from the research it arises that Italian Law covers various aspects in order to offer full protection to an author and his work. Nevertheless, it is important that authors know the rights they are entitled to, in fact, one of the reasons why record labels or other parties have greater contracting power when stipulating an agreement with a musical author could be due to the lack of knowledge by musical authors regarding what rights they have and how they can protect themselves and their works.
However, it is also true that a lack of knowledge regarding the rights available to authors is not solely the only factor contributing to this dominance by record labels and/or other parties. In fact, record labels have total control over the market in terms of distribution and marketing as they are obviously wealthier. Being among the only methods for an artist to reach success and a greater audience (as most artists lack the funds to finance their growth at the start of their careers), this allows record labels and/or others to exercise their power and insert clauses which not necessarily will aid or go in favour of authors/artists, or, reserve most of the proceeds from the exploitation of an author's work for themselves.

Additionally, it can also be concluded that it is not always the case that record labels or managers have their artists' interests at the core of their work and if these parties are in a situation of greater power, they could take advantage of the author's/artist's vulnerability such as in the Taylor Swift case.

Furthermore, updates in the legislation regarding the Authors' Rights have led to a reduction in the ability to exploit a position of dominance by collecting societies in Italy as a greater number of parties operating as collecting societies allows for greater fair competition and give the author greater ability to choose from diversified parties.

Nonetheless, it can be concluded that thanks to the increased digitalisation through the use of the blockchain and the introduction of Non-Fungible Tokens (NFTs) in the music industry, this position of dominance by record labels and/or others could be reduced in the future. This could be due to the increased independence of artists who through the implementation of the Blockchain and of NFTs

could raise funds in order to finance their projects and, therefore, have greater control over the exploitation of their works.

A steer towards greater digitalisation and greater independence could further lead to greater knowledge by an author regarding the rights available for an author of a work and for the work itself.

It shall be important to consider future modifications to Law No. 633 and whether these will work towards a reduction of the exploitation of dominant positions by parties such as record labels or managers to the detriment of authors/artists and whether these modifications will allow for greater protection and recognition in terms of proceeds to authors/artists.

BIBLIOGRAPHY

ARBONÉS, MARC. 2022. *"What is an NFT? A beginner's guide to Non-fungible tokens."* Accessed May 29, 2022. https://www.altcoinsmastery.com/what-is-an-nft/;

BLYNN, JAMIE. 2019. *"Taylor Swift's Former Label Owner Scott Borchetta Fires Back After She Accuses Scooter Braun of "Bullying"."* Accessed May 28, 2022. https://www.eonline.com/news/1053413/taylor-swift-s-former-label-owner-scott-borchetta-fires-back-after-she-accuses-scooter-braun-of-bullying;

CONCAS, ALESSANDRA. 2021. *"Disciplina dei contratti atipici."* Accessed May 22, 2022. https://www.diritto.it/contratti-atipici-definizione-caratteri/;

CONCAS, ALESSANDRA. 2021. *"Il diritto d'autore."* Accessed March 28, 2022. https://www.diritto.it/il-diritto-dautore/;

FRANCESCHETTI, PAOLO. 2016. *"Causa del contratto."* Accessed May 31, 2022. https://www.altalex.com/documents/altalexpedia/2016/02/29/causa;

HADEN, JEFF. 2020. *"Taylor Swift's Masters Just Sold for $300 Million, Revealing a Brutal Truth About Business."* Accessed May 28, 2022. https://www.inc.com/jeff-haden/taylor-swifts-masters-just-sold-for-300-million-revealing-a-brutal-truth-about-business.html;

HALPERIN, SHIRLEY. 2020. *"Scooter Braun Sells Taylor Swift's Big Machine Masters for Big Payday."* Accessed May 29, 2022. https://variety.com/2020/music/news/scooter-braun-sells-taylor-swift-big-machine-masters-1234832080/;

HIRWANI, PEONY. 2021. *"Taylor Swift's Wildest Dreams could overthrow the original version on UK chart."* Accessed May 29, 2022. https://www.independent.co.uk/arts-entertainment/music/news/taylor-swift-wildest-dreams-uk-chart-b1923948.html;

IUDICA, GIOVANNI, and PAOLO ZATTI. 2019. *Language And Rules Of Italian Private Law: An Introduction, fourth edition,* edited by Alessandro P. Scarso. Milan: Wolters Kluwer, pp. 55 – 57, pp. 70 – 103;

KREPS, DANIEL. 2019. *"Taylor Swift: Scooter Braun's Acquisition of Back Catalog 'My Worst Case Scenario'."* Accessed May 28, 2022. https://www.rollingstone.com/music/music-news/taylor-swift-scooter-braun-big-machine-worst-case-scenario-853836/;

MEO, CARLO. 2018. *"Società di gestione collettiva dei diritti d'autore."* Accessed May 25, 2022. https://www.treccani.it/enciclopedia/societa-di-gestione-collettiva-dei-diritti-d-autore_%28Diritto-on-line%29/;

MIGLIORINI, FEDERICO. 2020. *"Il Musicista: guida legale fiscale e previdenziale."* Accessed April 28, 2022; https://fiscomania.com/musicista-guida-legale-fiscale-e-previdenziale/;

MORBIDI, CHIARA. n.d. *"Copyright e Diritto d'Autore."* Accessed March 28, Accessed April 28, 2022. https://www.ufficiobrevetti.it/copyright/;

N.d. n.d. *"Diritto d'autore – Cos'è e come funziona."* Accessed April 12, 2022. https://www.consulenzalegaleitalia.it/diritto-autore/;

N.d. n.d. *"Diritto d'autore – Cos'è e come funziona."* Accessed April 10, 2022. https://www.consulenzalegaleitalia.it/diritto-autore/;

N.d. n.d. *"Licensing Agreements: The Basics."* Accessed April 7, 2022. https://www.inc.com/encyclopedia/licensing-agreements.html;

Civil Cassation, February 17, 2010, First Section, Sentence N.3817;

Italian Civil Code, March 16, 1942, n.262;

Law No. 633 of April 22, 1941, for the protection of copyright and neighboring rights (as amended of 14th December 2021).