

# **PRESENTATION**

## **INTRODUCTION**

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**copyrights**

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**Carl Gustav Jung**

# INTRODUCTION

## pomůcky:

kazeták 📻  
2 kazety - My Sweet Lord a He's So Fine. 📻 📻  
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nálepky  
kartičky do ruky 📄

*Hello, just a moment please. Let me do small preparation.*

## PREPARATION:

nachystám kazeták 📻  
pustím My Sweet Lord 🎵  
rozdám papíry s "tasks" 📄  
dám osnovu na meotar 📄  
obrázky mám jen nachystané na stole  
vypnu My Sweet Lord

*O.K. Let's go to the **serious business***

*Good morning ladies and gentlemen,  
my name is Jan Plšek  
I hope you'll enjoy next twenty minutes.*

*General topic of my presentation is **intellectual property**.  
We'll recapitulate what we know so far, and perhaps [péhaeps] we will learn something new.  
From this wide area I have chosen **copyrights** and especially **infringement**.*

*We have heard a piece of song.  
Does anybody know who was the **performer**?*

**dám na tabuli obrázek George Harrisona** 📄

*Yes! Excellent! Brilliant! / ... never mind. Thank you for your participation.  
The singer, guitarist and composer [kempeuze] **George Harrison**, former member of the Beatles.  
But did you know, that this nice **innocent song** appeared before a court?  
Yes. The same sound was played in the hall of U.S. federal court.  
So, in the second part of my presentation, we'll try to **put ourselves into the role** of the judge and we'll try to decide this famous authentic case.*

*I have distributed to you some **sheets of paper with questions**, you can try to follow and check.  
At the end I'm going to test your attention.*

*That's all for the **introduction**.  
And now let's move to the explanation.*

# MAIN BODY

## Intellectual property

First **I should recapitulate** basic information about intellectual property.

**Pay attention** please, because some information can be useful for our case.

**Intellectual property** is a category of intangible incorporeal rights protecting the products of human intellect or mind.

The word "intellectual" doesn't mean, that it can be applied to **ideas** themselves.

They must be expressed in material or artistic form.

Not idea itself, but it's expression can be protected.


## copyrights

The main legal **instruments** are patents and copyrights.

Copyright is a right of protection against what? ... **Yes, against copying.**

**Unlike a patent**, copyright doesn't need any formal registration and any maintenance fee.

A new work is protected **by itself** by its creation.

Sometimes is a work marked with international copyright symbol ... **ukážu** ©  , but this is **not essential**.

Protection is operating **from the moment of creation** of the work with or without this symbol.

Copyrights covers typically **literature**, art, computer programs, movies, music, performances, radio and television broadcasts and so on.

These works **cannot be patented**, but can be protected by copyright.

Copyright is basically **owned** by the creator of the work, but it can be **passed** to someone else as well as any other property.

So, copyrights are often owned by companies - **publishers** for example.

## Infringement

And what does it mean an infringement [infrindžment]?

Copyright infringement (or copyright violation) is simply the **breach of law**.

It is **illegal** [i:ligl] **copying** of the work protected by the law.

More precisely, it's **unauthorized use** of exclusive rights of copyrights holders.

Another expressions in use: ... **plagiarism**, bootleg, piracy, copyright violation and so on.

There's some **special consideration** applied in most countries.

Usually, the plaintiff doesn't need to prove the intention, only that the act of copying was committed by the defendand.

There is **strict liability**. Infringer is absolute objective responsible.

And last important thing.

The plagiarism doesn't need to be exactly the same as the original.

Even a reproduction of a **substantial part** of the original is enough.

So, that's all for now about theoretical explanations..... and...

# THE CASE

..... and we will come to practical demonstration.

Let me introduce the **parties to an action**.

**Defendant** is already known. It's George Harrison and his publishing company Harrisongs Music.

And there comes four pretty ladies, once known as The Chiffons, and their publisher Bright Tunes Music Corp. as the **plaintiff**.

dám na tabuli obrázek The Chiffons 

## Songs in question

What's the matter:

George Harrison **was sued** for his song My Sweet Lord **for infringing** the copyright on the song He's So Fine performed by The Chiffons.

### My Sweet Lord - George Harrison

My Sweet Lord was composed and recorded in **1970** and in the same year it was **released** [rilišt] in the United States and became a "number one" there.

### He's So Fine - The Chiffons

He's So Fine was a top hit in **1963** in the United States and England.

It was the same season when the Beatlemania had started.

**Harrison confirmed** in the court that he had heard He's So Fine at this time.

It was composed by Ronald Mack, and

the copyright was owned by Bright Tunes Music Corp.

In **1971** Bright Tunes brings an action against Harrison.

And now please, **try to imagine to be in the position of the judge** and try to make some opinion.

Let's recall My Sweet Lord ....  pustím kousek My Sweet Lord

And now, something different... meet The Chiffons !!!  pustím kousek He's So Fine.

So, what do you think? For comparison, one more time...

## Harrison's defence

Now, I'll tell you briefly about **Harrison's defence**, and then I'll ask you for your opinion.

Harrison claimed that **he did not knowingly appropriate** the melody of the Chiffon's song.

He had heard He's So Fine before he wrote My Sweet Lord, but it was **seven years ago** and that old **song was forgotten** long before he had composed My Sweet Lord.

He had any intention to copy and therefore, he **pleads not guilty**.

## Opinion of the audience

So, you've heard both parties to an action.

Now try to consider all important circumstances...

So, I'd like to ask you for your **verdict**.

Was it infringement? Guilty or not guilty? Who says guilty, hands up, please! ... Oh, poor George.

And some **reasons**? And what are the reasons? Try to add some reasoning.

Excellent! Brilliant! You might be a musical experts in the court, really.

# JUDGEMENT

Let's see, what the *U.S. federal court* said.

## question of fact

First, *question of fact*.

Both parties called *musical expert witnesses* to support their position, but in the end, all experts had to confirm essential similarities between musical structure.

**Citation** [saitejšn] from written opinion published by the court:

"While there may have been modest alterations to accommodate different words with a different number of syllables [sileblz], **the essential musical piece was not changed significantly. It's perfectly obvious, the two songs are virtually identical.**"

According to opinion of the judge, *Harrison hadn't had intention* to appropriate the melody of He's So Fine for his own use.

The plagiarism was subconscious [sabkonšes], unintentional, **but it isn't a defense**.

## question of law

Now we come to the *question of law*.

The court noted that an infringement **can be constituted**:

- 1) first - when the holder of the copyright demonstrates that the second work is [sebstaenšli] **substantially similar** to the protected work
- 2) second - accused composer had "**access**" [aekses] to the first work. (there must be proved contact between accused composer and the first work)

Harrison fulfilled the **second point** when he confirmed that he had indeed heard He's So Fine.

Court pointed out that:

**Copyright Act** did not require a showing of "intent to infringe" to support a finding of infringement.

So, despite the lack of an intention, in this case, **it was an infringement**.

The principle of **strict liability** operated there.

Harrison was ordered to pay **damages**.

It was 75 percent of earnings of the My Sweet Lord and one-half of the earnings of album which includes this song.

## Harrison's case as a precedent

In United States is this case considered as a **precedent** for cases of subconscious [sabkonšes] plagiarism.

There's **no difference** between intentional plagiarism and the unintentional one.

This principle was **affirmed** by next cases.

# TAKS FOR AUDIENCE

*Now comes the time for small test of your attention.*

*Who will know, can answer. ☰*

*All answers can be right. First question... Excellent! Brilliant!*

## What is copyright?

**A) Copyright is an unregistered right.**

**B) Copyright is a form of legal protection provided to the authors of original works.**

**C) It's that small international symbol © with the creator's name and the date of creation.**

*It's only symbol, but this is not essential.*

## What does it mean "infringement" ?

**A) A process in the fridge.**

*I hope you've noticed primitive joke.*

**B) Unauthorized use of material which is protected by copyright law.**

**C) Copyright violence.**

*It's also joke. Correct expression is violation. Violence is force, outrage, obstruction.*

## True or false?

**1) Ideas themselves cannot be protected by the law (patented or protected by copyright).**

*True! Only the expression of idea can be protected.*

**2) Subconscious, involuntary copying of original work can never be considered as an infringement upon the copyright.**

*False! It was the Harrison's case above. Unintentional plagiarism. There is strict liability.*

*According the precedent in U.S., it is considered as infringement.*

**3) Copyright is always owned by the creator of the work. It cannot be passed to someone else.**

*False! It can be passed to another legal subject, as well as any other property. It's usually passed to publishing company and when the work is successful, the copyright is very priced business asset.*

# CONCLUSION

*Thank you for your participation. These papers are yours, of course.*

*In the end, **let me close** with a short citation [saitejšn] as a different view in this matter.*

**dám na meotar fólii s citátem ☰**

*The guru of deep-psychology [saikoledži], Carl Gustav Jung, wrote in 1961:*

*"The ability to reach a rich vein (bohatá žíla) of such unconscious [ankonšes] material and to translate it effectively into philosophy, literature, music or scientific discovery is one of the hallmarks of what is commonly called genius." --- Carl Jung, Man and His Symbols.*

*So, thank you for your **time, attention and patience**.*

*Have a nice day. Thank you very much.*