East-West Encounters in Popular Music: From “Raga Rock” to “Raga-Rap”

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1960s and 1970s: “India Fad” in the West

Yoga, Meditation, Vegetarianism, Spirituality, Hindu and Buddhist philosophy
George Harrison deeply influenced by Hindu culture, Beatles spend a year in India
Musical Impact: Harrison Learns the Sitar, “Raga Rock” is born
Beatles Songs using Indian Instruments

Norwegian Wood
Across the Universe
Strawberry Fields Forever
Love You To **
She Said She Said **
Tomorrow Never Knows
Within You Without You**
The Inner Light**
Rain

** Indicates songs written by Harrison

Other Musicians: Rolling Stones, Yardbirds, Byrds, Iggy Pop...
Legal Implications

- No tunes copied, sitar and tabla used as substitute for guitar and drums

- Some songs used medieval tunes and chants, but no protection: traditional cultural expressions (TCEs)

- Clip 1: The Beatles, *Love You To*

- Clip 2: The Stooges, *We Will Fall*
Meanwhile in India...

Indian film industry (Bollywood) known for making musicals

1970s onwards: Music composers blatantly copied tunes from American/British artists and “Indianized” them, used Indian instruments with guitars and drums — “Bollywood sound”

Clip 1: *If It’s Tuesday This Must Be Belgium* (composed by Donovan, sung by JP Rags)

Clip 2: *Chura Liya Hai Tumne* (composed by RD Burman, sung by Asha Bhosle)
Legal Implications

20th century: Scores of cases of blatant copyright infringement, but no recorded instance of a suit filed against a Bollywood company by a British/American music company

India signed Berne Convention in 1928, Indian copyright laws largely based on UK law

Possible reasons for no litigation:
- Non-existence of TRIPS until mid-1990s
- Lack of interest by foreign copyright owners in India, closed economy
- Low quantum of damages awarded in India, developing country
Birth of “Raga Rap”

1990s: India abandons socialism and liberalizes economy — Bollywood films and songs more accessible abroad — British-Indian musicians remix Bollywood classics, blend hip-hop and Bollywood (Bally Sagoo, Panjabi MC)

21st century: US hip-hop artists take notice, sample Bollywood music (Black Eyed Peas, Dr. Dre, M.I.A., Timbaland etc)

Clip 1: *Ae Naujawan* (1972) (composed by Kalyanji-Anandji, sung by Asha Bhosle)

Clip 2: Black Eyed Peas, *Don’t Phunk With My Heart* (2006) (reached #3 on the Billboard Hot 100, won Grammy for Best Rap Performance by a Duo or Group)
Legal Implications

Most artists obtained a license (e.g. Black Eyed Peas, M.I.A.)

Two reported cases of artists who did not do so being sued

Case 1: *Addictive* by Truth Hurts, feat. Rakim (produced by Dr. Dre)
Recording of an entire Bollywood song was used with a few English lyrics thrown in (*Thoda Resham Lagta Hai*) — reached #9 on the Billboard Hot 100 — no license taken

Case 2: *Put You on the Game* by Timbaland — one-second sample of recording of a Bollywood song was used (*Baghon Mein Bahar Hai*) — no license taken
Truth Hurts case

Separate suits by music company and composer

Saregama v. Andre Young (Dist. Ct. California, 2003): Plaintiff awarded injunction but no statutory damages (unregistered work), punitive damages not awarded — national treatment principle

Lahiri v. Universal (Dist. Ct. California, 2006): Composer registered work in US and sued for damages retroactively for non-attribution — court refused to retroactively award damages — only works of visual arts entitled to right of attribution (Visual Artists Right Act)
**Timbaland case**


Both District Court and Appeals Court denied plaintiff relief

Per the contract, sound recording copyright was licensed to Saregama by the film production company for only 2 years, Saregama had no standing to bring the claim
Meanwhile in India...

Post-TRIPS: Increasing number of IP suits filed by overseas plaintiffs in India

Examples of plagiarism cases: Suit by 20th Century Fox against Bollywood studio for copying a storyline (injunction and damages awarded), suit by a British author against a TV company for copying plot of a novel (suit failed, commonplace plot)

Music copyright cases:
Loreenna McKennitt v. Deepak Dev (2011, Delhi HC): Suit filed by Canadian new age musician for copying melody of her songs — interim injunction awarded
Looking Ahead...

Increasing awareness of infringement in both India and the US

Diffidence about enforcing rights, lack of awareness about good lawyers and litigation scenario in both countries

Could future entry of foreign law firms in India be a game changer?
Thank You