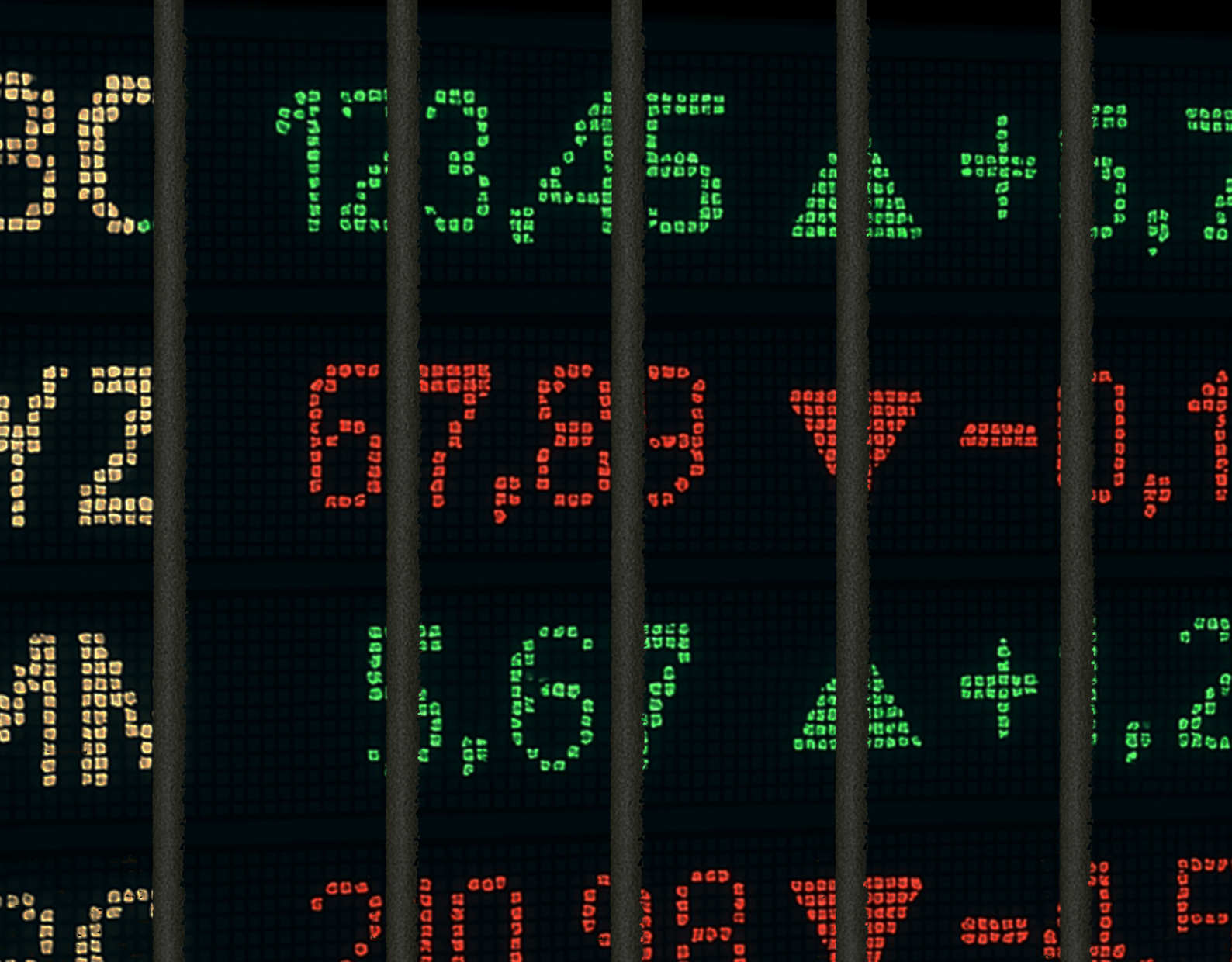
EDI

Are Tickers Subject to Copyright?



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Executive Summary

The problem with copyright laws is that they date back more than 400 years. What worked then really does not work now. Recent technology has created and widened the fault lines in a property right designed for print. We focus here on new methods of copying and the question of which content qualifies for copyright protection. Exchange Data International (EDI) as one of the premier data vendors is heavily involved in this issue and is publishing this paper to shed light on the copyright issues surrounding tickers. Many exchanges claim that they are copyrightable, but the law is not on their side.

Tickers are not original, nor are they creative. They lack human authorship. This means that they are not copyrightable, which in turn means that their use cannot be controlled under copyright law. There are additional reasons why they are not subject to copyright, which we examine below. But let's start with the basics.

What is a ticker?

A ticker is a symbol used to identify publicly traded shares of a particular company on a particular stock exchange. It uses letters and/or numbers that combine to provide an abbreviated way for investors (or anyone, really) to refer to those securities. Some exchanges for some securities also include ticker extensions, which give additional information such as share class. Put another way, a ticker is a shorthand means of identifying a security. Tickers originated in 1867 with the invention of the ticker tape machine; the first ticker identified shares of Union Pacific Railway. Why “ticker”? Because that was the sound made by the machine. The name stuck.

Most tickers use just letters to identify the security, and usually this is accomplished in three or four letters. The ticker identity WMT, for example, is the symbol for WalMart; AAPL is the symbol for Apple, Inc. Some companies are even more compact: F is the symbol for Ford. Usually but not always, then, the ticker symbol is derived from the name of the company. There are exceptions, such as LUV for Southwest Airlines, BUD for Anheuser-Busch and HOG for Harley Davidson. There can also be ticker extensions, some of which use numbers.

Although there might be consultations with the company seeking a ticker symbol, the responsibility for originating the ticker rests with the exchange on which the security will be listed. This is important for the purpose of our argument for two reasons. First, it underscores the “non-human” element of the work: in other words, tickers are not the result of authorship as defined… anywhere. And secondly, generating and assigning tickers is part of what exchanges must do. We will return to that point when examining how exchanges try to control third-party use of tickers.

Why is copyright an issue with tickers?

The primary dispute about tickers is about money. For more than two decades, exchanges have been trying to monetize what used to be a subset of their core business, itself undertaken as part of what are often protected and monopolistic functions. As they try to evolve their business model, exchanges worldwide want to assert – and many do assert -ownership rights and either prevent or restrict or charge fees for data that they have to generate anyway, including for closing prices. Non-exchange businesses want to aggregate and sell that data. Exchanges want to stop them, and if there is an opportunity to sell the data, to do it themselves. On the face of it, the easiest way to achieve this is to claim that they own copyright, so that no-one else claim the rights and sell the data, at least not without permission given in return for a licence fee.

Do exchanges own copyright in tickers?

But they do not. Copyright is based on national legislation as interpreted by courts. As explained below, simply asserting copyright does not mean that you have it – despite contract language typically used by exchanges. Frequently exchanges demand an acknowledgement of copyright in exchange for licensing agreements that data distributors might need to obtain data in formats that they can use. Those agreements should address and charge for convenience and added value, not rights that exchanges do not own. So let's look at why they do not own them.

What does copyright mean?

Each country has its own copyright law. While there are many similarities, they are not all the same, especially between common law countries (mostly the English-speaking countries) and the civil law countries (Europe, mainly). The focus here is the UK and the US because these are the most important when it comes to disputes about the scope of the law but we also need to look at the EU because the European Commission regulates what might be called the competition side of how copyright is managed.

Central to copyright is the principle that the person who produces a published work owns the exclusive right to that work. There are many moving parts to this but here we need look only at two of them – what gives rise to copyright, and are there any limits on those rights?

Under UK copyright law, the key concept is "originality" rather than "creativity," meaning that a work must be the author's own intellectual creation, demonstrating a degree of skill, labor, and judgment, even if the level of creativity is relatively low: essentially, the work needs to be independently produced and not simply copied from another source.

US copyright law is a bit different. To be protected by copyright, a work must be original (not copied from another work - and the cost or effort involved is irrelevant) AND there must also be at least some creativity. The US Supreme Court has said that, to be creative, a work must have a "spark" and "modicum" of creativity. There are some things, however, that are not creative, like: titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; and listings of ingredients or contents. This amounts to very thin ice on which to base any assertion of copyright in tickers; and there are other barriers, and there are other reasons to dismiss the exchanges' claims, examined below.

There must also be an author, although it is not necessary for the author to be the copyright owner. Tickers, however, can be formulaic or in some cases determined by the exchange in consultation with the listed company. But by no stretch of the imagination can they be said to be authored in any normal sense. And this is before we get into "non-human" output.

Are tickers original or creative?

They are not. We know this from several cases, mostly in the US. These include the Supreme Court Feist decision (1991) involving telephone directories. The court held that listings do not involve any creative expression and that the time and money expended is irrelevant. Both Mitel (1997) and Toro (1986) held that numbering systems that select numbers randomly or arbitrarily, or which are sequential, lack the originality to be copyrighted. Tickers, it might be argued, are not random but formulaic, as there is a very loose structure to them. True, but it still does not get them over the line.

One case of numerical processes did qualify as copyright. In American Dental Association (1997) the litigated issue was whether the ADA codes for classifying dental procedures was copyright. A court decided that it was because the codes were not auto-generated lists: each code was developed separately after analysis of the procedure and there was no way to predict what it would be. This is quite different from tickers and also from ISINs (International Securities Identification Numbers) which were the subject of a European Commission decision in 2011 and which uniquely identify securities for trading and settlement purposes. The ISIN code is a 12-character alphanumerical code that does connote a specific stock but is instead an identifier used for trading and settlement. A security that trades on multiple exchanges will have multiple tickers but only one ISIN. So, is there copyright in ISINs?

Probably not. Starting with the “not”, we have the European Commission’s 2011 decision in the Standard & Poor’s case (ref: COMP/39.592) discussed below in more detail. It involved the charging of licensing fees for ISINs. There is structure and rationale to the numbering system but the ISIN is formulaic: it comprises a country code, the issuer code and the issue code with a check digit relating to them; and then a final check digit that applies to this entire sequence. The European Commission resolved the case mostly on the grounds of competition law but it also stated that ISINs do not pass the tests needed for copyrightability.

Also relevant here is that some exchanges essentially confirm the automated nature of generating ticker symbols. For instance, Nasdaq publishes a document called Nasdaq Fund Network Symbol Generator, which sets out the symbol assignment rules in a manner that makes it very clear that there is no human authorship, or any creativity, in the process. [https://nfn.nasdaq.com/symbolgenerator.aspx]

Other impediments

There are other reasons why tickers cannot be copyrightable. These include the position of the US Copyright Office that "it is well-established that copyright can protect only material that is the product of human creativity. Most fundamentally, the term 'author,' which is used in both the Constitution and the Copyright Act, excludes non-humans. The Office's registration policies and regulations reflect statutory and judicial guidance on this issue."

To be fair, this is an evolving discussion, largely because of the evolution of AI. There are multiple copyright aspects to AI, including whether it is fair use for AI technologies to "train" on published copyright materials. But downstream from that is whether AI outputs can themselves be copyrightable. So far the answer is no, although there will be no shortage of lobbyists advocating for an affirmative position.

The US Copyright Office addressed copyright in works of art created with the help of artificial intelligence. According to a report released by the office last year, the artist's handiwork must be discernible in the final product for it to be copyrightable. And if a human makes "creative arrangements or modifications" to an AI-generated output, that work can be protected, according to the Register of Copyrights, Shira Perlmutter. She highlighted what was described as the "centrality of human creativity" in the creation of a copyrightable work, saying "Where that creativity is expressed through the use of AI systems, it continues to enjoy protection."

Nonetheless, the Copyright Office still denies protection to fully AI-generated content:

> **Extending protection to material whose expressive elements are determined by a machine…would undermine rather than further the constitutional goals of copyright.**

Its legal position was upheld in March 2025 by a US Circuit Court of Appeals (Thaler v Perlmutter No. 23-5233).

This decision acknowledged that a mix of human and AI authorship might be copyrightable but did not attempt to set standards beyond saying that there has to be an element of human authorship.

The standards for copyright are not uniform between countries, although they are not so different as to produce significantly different outcomes. In other words, while the route may vary, the destination is usually the same. However, there seem to be certain common trends.

In November 2023 the UK Court of Appeal in London handed down a decision (THJ v Sheridan) in a dispute about copyright in a graphical user interface (GUI).

The case was brought against a defendant who continued to use certain digital charts analysing financial market data created by bespoke software developed by the plaintiff after the termination of his licence. The defendant said that the charts (constituting the GUI) were not sufficiently original to attract copyright protection and so he did not need a licence to use them in his business activities. The Court of Appeal ruled that the correct test was the EU standard for originality, which requires a work to be the "intellectual creation" of its author. And this was when the UK was no longer a member of the European Union!

The ruling built on a 2009 precedent (Infopaq v Danske Dagblades Forening) that copyright applies "only in relation to a subject-matter which is original in the sense that it is its author's own intellectual creation". From there on the case addressed issues concerning mainly museums and art galleries but the core of the ruling was that need for something more than labour and skill to be copyrightable.

Other IP issues [trademark]

Accepting that tickers are not copyrightable, is there any other form of intellectual property protection that applies to them that could be used to limit third-party use?

Tickers cannot be patented, they are not trade secrets and they are not copyrightable. That leaves only trademark law.

Although none appear to have been registered at any trademark office, anywhere, there have apparently been successful claims by companies that they have unregistered trademark rights in ticker symbols and that these trademark rights have been used without their consent in connection with the marketing or sale of their goods or services.

However, this only applies if the use of the mark by a third party could lead to marketplace confusion and unfair competition – for instance, when a ticker symbol either is very similar to another symbol or is identical to another company's trademark. It is therefore irrelevant to the use of tickers by, say, vendors of financial data.

Competition law

Finally we need to address some of the issues arising from how exchanges have tried to use their alleged copyright ownership, or their control of data, to prevent the use and resale of the data by third-party vendors. The very few cases on this question mostly centre on the EU, its laws on abuse of market dominance and unfair competition and, where database issues are involved, whether the database was integral to the database operator's separate business needs. it is necessary to keep this part of the analysis focused on what is relevant to EDI and so addressed are first the approach taken by the EU to dominant position and then, secondly, two cases involving financial data as these affect companies like EDI and other aggregators and vendors of financial data.

In IMS Health GmbH & Co. OHG v NDC Health GmbH & Co (2004) the European Court of Justice set out tests to determine whether a refusal to grant a copyright licence infringed EU competition law. These tests included:

- Whether the licensor has a dominant market position
- The impact of the alleged abuse of that position on competition
- If the effect of the refusal eliminates competition by reserving the market to the licensor
- Whether the prospective licensee will offer any services not offered by the licensor

This ruling still stands and while the UK is no longer a member of the EU, courts in other countries will be strongly influenced by the approach taken by the ECJ. Central to that approach is that refusal to supply, or imposing unreasonable terms and conditions, can infringe competition laws.

Turning now to two European Commission decisions that do touch on financial data, the first is Standard & Poor's (2011). This involved the charging of licensing fees for ISINs. S&P claimed that they owned copyright in the ISIN databases and the individual numbers. In its ruling the Commission "took the preliminary view that S&P does not own copyright" in either the database or the numbers and that "relevant national precedents found that individual numbers are too trivial or not original enough to constitute material that can be subject to copyright". The way this case was resolved was, essentially, a compromise: S&P made various commitments to buy a five-year hold on the decision. These didn't prevent S&P from deriving revenue from supplying ISINs but it was limited mostly to reasonable service charges. Notably, though, S&P made no concessions on copyright, though if the matter was ever litigated again, they would almost certainly lose.

Also relevant is the 2012 Refinitiv settlement involving Reuters Instrument Codes (RICs) which was a five-year bar on Reuters from imposing restrictions on former licensees who wanted to switch market data vendors. Again, to reach a settlement there were various compromises involved, reflecting the complexity of the dispute. Significantly, though, the Commission noted that market-generated data do not give rise to copyright or database rights.

Conclusion

Although they take slightly different pathways, courts in most countries will not allow tickers to be considered copyrightable. They are not original and/or creative and/or the product of human authorship. If more complex numbering systems such as the ISIN are not copyrightable, then tickers fall at the first hurdle.

And one of the consequences of this is that attempts to restrict their use will also trip up on competition law grounds. Much of the legwork for that was done by the European Commission and it is unlikely that courts elsewhere will dispute the thinking behind those decisions.

About the Author

Andrew Martin is an independent consultant, based in Toronto, Canada, specializing in copyright law, policy, and administration; publishing and new media contracts; and content licensing agreements. He has a degree in law from the University of Cambridge; attended the Inns of Court School of Law; and was called to the Bar of England & Wales by the Honourable Society of the Middle Temple.

From 1981 to 1987 he was a Director of Butterworth Law Publishers, and President of Butterworths Canada till 1992.

In 1993 he was appointed Executive Director of Access Copyright where his responsibilities included managing assigned rights on behalf of copyright owners, formulating proposals for copyright law reform, and negotiating bilateral agreements to enable international cross-licensing of published works.

He then worked for CanWest Interactive as General Manager, with operational responsibility for CanWest's B2B databases and its newspaper and portal websites, and as corporate director of licensing.

Since 2004 he has been in practice as a consultant. His clients include publishers and organizations that represent copyright owners in Canada, the Caribbean, United Kingdom, and the United States as well as universities and government agencies in Canada. He is a tutor and examiner for copyright programs run by the World Intellectual Property Organisation (WIPO).

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