

PanArt's reasoning to the court (translation):

Regarding the legitimization of their copyright claim

They be the sole creators of Hang and Integral Hang and have the right to exclusive usage, including carrying through this exclusive right against others.

Regarding the protection of their creations as works of art

PanArt claims copyright of their creations based on the combination of **5 features**, which are all **not defined by technical reasons**. The creators had the intention to create a convex-concave plasticity and condense it to a dynamic shape, which should radiate natural harmony. With the hang sound sculpture, they created **a new category of work - an object which is created mainly as a work of art, but allows creation of sound as well. So it is also a musical instrument in the furthest sense.**

They claim to have created an individual presentation of tone fields and resonance body, which embodies the creative decisions, in which the personality of the creators is reflected to a high degree.

For that reason there is no valid claim to a free space for a category of musical instrument (handpan). When the hang was created, there was no comparable instrument and no category of "handpans".

What is called a handpan today, was created by the hang creators with the sculpture "Hang". For that reason the word "handpan" is no more than a word for plagiarisms (illegal copies) of the Hang.

Regarding the background and the defining characteristics of the shape of the Hang is stated by PanArt:

The Hang is created as organic sculpture and the choice of its shape and its inner order visually creates a unique harmonic character. The shape represents the artistic-philosophic concept of their creators, which created the Hang as a social sculpture, which is also accessible to un-schooled players. The spontaneity of the player is in the foreground against a technical/formal play following strict rules.

The Hang is not fitting for technically complex play and therefore can not be labelled a musical instrument in its actual sense.

Regarding the aspects of the hang that justify copyright protection:

The main impression of the Hang sculpture is defined by several characteristics:

- The lens-shaped form, consisting of 2 synclastic sphere segments
- A golden-colored messing ring (only Integral hang)
- A central dome (Ding)
- The opposite resonance hole (Gu)
- The circle of tone fields on the upper part of the instrument

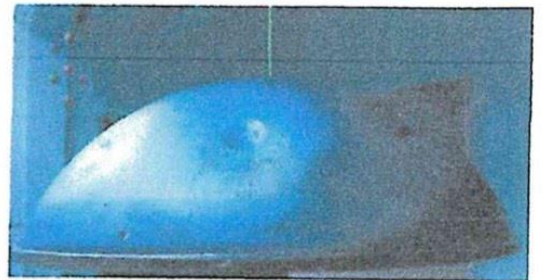
Further explanations of the 5 aspects protected by copyright:

Regarding the lens shape

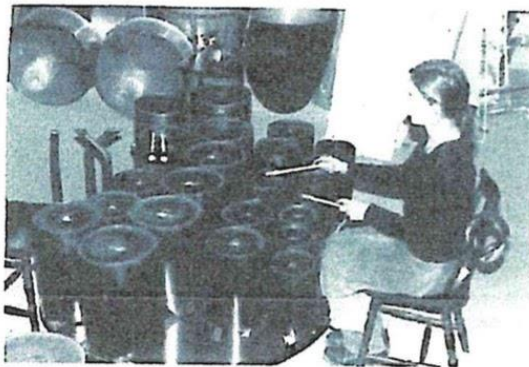
The creators of the hang chose a sphere-shaped bowl to stabilise the tone fields for purely aesthetic reasons. The choice of the equal shape of the lower sphere was purely aesthetic as well. The shape of the resonance body wasn't chosen for technical reasons and is not technically necessary, because identical sounds can be created with resonance bodies of completely different shape.

P to 30 parameters influence the sound of a steel pan or a hang. For that reason the instrument can look the same, but sound completely different and they can look different but sound the same. It is virtually impossible to create 2 optically identical copies of one instrument which sound identical. The resonance body doesn't even have to be round, it could be oval, cupola or pyramid-shaped. It is also irrelevant if a convex resonance body is held in hands or fixed.

This is also proven by several PanArt experiments:



For example PanArt created a "Tubal", a purely functional instrument, which is comparable to the hang in sound, but has a larger spectrum of sounds and allows precise and virtuous playing. The use of mallets is advised for that kind of play, but it can be played with the hands as well.



There are various possible shapes of a single resonance body, which would be suitable for the play-technical requirements of the hang just as well.



Especially the next example creates similar sounds to the hang:



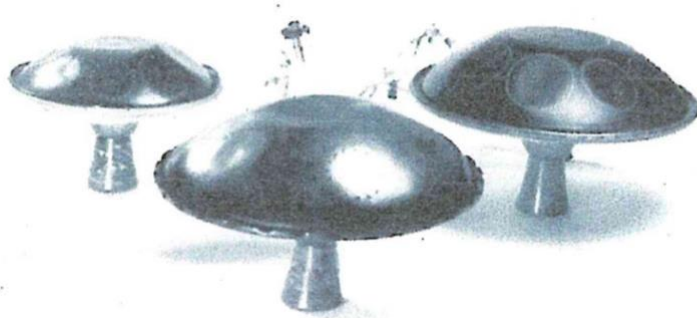
In the court hearing, Mrts. Schärer presented this instrument and called it a “lap-instrument”. For playing the “Hang”, the lens shape of the lower half is actually problematic, because it is not stable on the lap of the player. Better would be an option like this:



Regarding the position of the opening (Gu-hole)

PanArt states that the position of the gu was chosen for purely aesthetic reasons and not following a technical requirement. The central opening of the hang in the lower segment functions as a helmholtz resonator and gives the sounds a certain depth.

The opening could be round, oval or have a pyramid shape and just like the position is not relevant for the sound. It could be located in the upper half of the instrument and similar sounds could be created by other means and without opening. This is demonstrated by several copies of the hang by other builders:



Regarding the shaping of the tone fields

Also this is not done for technical reasons and not technically necessary.

How such tone fields are shaped or layed out on the instrument is up to the individual tuner and considered an artform on the Trinidadian steelpan. The tuner can shape her/his tone fields arched, vaulted, flat, round, cornered or ellipsoid and create different sounds (short, long, brilliant or sharp).

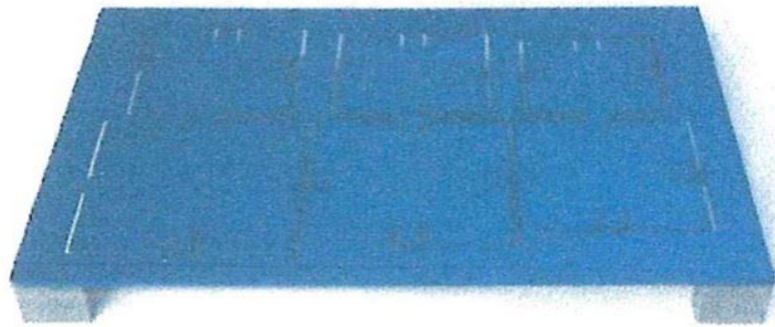
For the shaping of the tone fields, there is practically unlimited freedom and it is independent of its acoustic properties.

Possible are for example arched, vaulted, flat, round, cornered or ellipsoid shapes, which can be varied in dimension, curvature and in its border towards the instrument body.

It is possible to have to identical looking tone fields sound completely different and to have to different looking tone fields sound comparable. Different and just as suitable shapes of tone fields can be seen here:



Also a different kind of fixation towards the resonance body would be possible for the Hang, like in this example:



Regarding the layout of the tone fields

The layout of tone fields was chosen for aesthetic reasons, not due to sound, technical or ergonomic reasons.

The sound creation with a hang is not linear and differs from the commonalities of the western musical context. A formal “playing technique” or playing from musical notes is not intended. The hang should inspire its player to spontaneous movements through its aesthetic layout, which can't be repeated in same quality. For this reason there are no existing manuals how to play the hang. The hang is valued primarily by people who want to express their personally through musical expression through free and unlimited spontaneous play. The hang was never intended to be played from notation and it is not suitable due to its musical reduction/minimalism. All efforts by percussionists, to notate their play of the hang, failed for those reasons.

There is no limitation or requirement how one should play the hang, just as there is no “up” or “down” specified on the instrument. The hang can not only be played flat on the lap, as most players prefer but also vertical or “the other way round” with the Ding downwards.

The circle-shaped layout of the tone fields is not ergonomically required, and doesn't give any ergonomic advantages over other layouts. The circle-shaped layout is an expression of the artistic concept of the creators and part of the special harmony symbolised by the hang. The circle shaped layout is not even ideal for orientation for 2-handed playing, 2 smaller circles next to each other would be more suitable, or like in the next image, a cross-shaped layout.



For this reason, the (in most plagiarisms completely different tuned) tone fields could be positioned differently on each sound sculpture. Unlike a piano player, who can orientate her/himself directly on every piano due to its chromatic tone layout, a hang player will not directly be able to orientate himself on an unfamiliar sound sculpture.

Regarding the positioning of the Ding

PanArt states that there is no (technical) necessity for a central tone field in the middle of the sound sculpture. This tone field could be on the side of the instrument, just like the other tone fields and a certain positioning is not required for its acoustic properties.

Regarding the golden messing ring on the Integral Hang

This ring has no acoustic significance and the coloring of the hang has no technical significance, which can be achieved by oil treatment, but is possible in various different colors. The socket underlines the sculptural character of the Integral Hang and is also protected.

Regarding the plagiarisms (handpans)

PanArt sees a violation of the copyright protection of the shape of the hang and IH. These are not copyright-free interpretations or developments of the Hang. The majority of handpans simply copies the shape of the hang without serious deliberation with its acoustic properties. This presents itself with the sound properties of these handpans, which can't compare to the original hang. Like most imitators, World of Handpans sells exclusively such plagiarisms because they have recognised that the harmonic and characteristic shaping of the Hang speaks to a large audience (as intended by its creators). World of Handpans wants to use the wave of economic success.

Some of the reasons for the court decision to grant copyright protection to PanArt:

PanArt convinced the court that Hang and IH are works of applied arts. They convinced the court that these are defined by creative elements which are not technically necessary. Their choices were based on aesthetic, not on technical reasons.

PanArt convinced the court that the characteristics 1-5 are technically based, but not technically necessary.

After Sabina's demonstration of differently-shaped instruments, the court was convinced that there are various different shapes possible in the creation of similar-sounding instruments.

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