

COPYRIGHT

11 Guidelines Concerning Copyright for the Handbell Musician

by Kevin McChesney

Copyright is a tangled and often confusing issue and changes in the copyright law happen frequently as the technology for music publishing and recording changes. So this article is NOT a comprehensive, all-inclusive look at copyright. It IS a short set of 11 guidelines that will answer most questions and lead you to answers for other questions.

The laws concerning copyright – that is, the right to make copies – are complex. This is because they deal with thoughts and ideas as property, not an easy thing to define, let alone to regulate. Thankfully, there are many wonderful minds who have worked diligently to create our copyright laws. After all, without this protection composers, writers, recording artists, publishers, and so on could not support themselves and could not create more work. **So it's important to respect the copyright laws and follow them to the best of our ability.**

Since copyright law deals with a broad spectrum of material and is therefore fairly extensive, this lesson will make no attempt to be a comprehensive list of copyright considerations and will not describe the US copyright law in detail. There are many available resources that do describe the copyright laws of this country fully, and a list of links and contacts is given at the end of this article.

What I would like to provide for you is a short checklist of 11 guidelines concerning copyright, something that you can refer to when you have general questions. Some of these ideas apply at all times; others are part of the copyright laws as they stand at this writing so you'll want to double-check with current resources any time you have a question.

IMPORTANT NOTE: This does NOT have to be an intimidating subject! Don't assume you can't understand this! In fact, I think you'll be delighted at how simple the list below is to digest and remember. Copyright law is of paramount importance if we are to continue to function as a musical community, so go through these guidelines one at a time and don't be scared! I'll get you through it! :)

ANOTHER IMPORTANT NOTE: Though you won't often run into copyrights held by countries other than the United States in your musical work, it may happen. What appears below applies to UNITED STATES copyright. For the laws of other countries, you'll need to do some asking around.

Here are 11 guidelines concerning copyright:

- 1) **Copyright is literally the right to make copies.** For the musician, it is the right to make paper copies of the score or the right to record the piece. It also covers the right to distribute copies or recordings by sale or other means, and the right to perform the work publicly.
- 2) **Churches and schools have certain “automatic” rights** to perform works publicly since it is the nature of their programs to do so. This assumes that there is no charge for admission. So there is no need to be worried about whether you have permission to play in church week after week – you do!
- 3) **The easiest way to define a “public performance” is one in which any money changes hands.** This is true of ticket sales and of freewill offerings (passing the plate at a concert). However, it matters where that offering money goes. If it goes to a church or a non-profit organization, there is no need to go through the hoops at ASCAP or other copyright licensing agencies. If the money goes into anyone’s pocket, be sure you have your copyright permissions and licensing payments in place. When in doubt, look up the current policy online or contact the US Copyright Office.
- 4) **Currently, anything with an original copyright date of 1922 or before is in the public domain – that is, it is no longer under copyright. Any music with an original copyright date of 1923 or after is under copyright. And copyright stays in effect for 90 years after the original copyright date.** Of course, ALL handbell music – at least as we play it today – was written after 1923 and is therefore under copyright. Let’s see what this means to you:
 - a) **You have to purchase the proper number of copies of the music for your program; you can’t just run them off on a copy machine...** UNLESS you purchase from Sonology Music or STEP or another publisher that gives the purchaser a LICENSE to make copies, in which case it is perfectly legal (as long as you stay within the guidelines of the license) and saves you a lot of money, too!
 - b) **Even “Permanently Out Of Print” music is under copyright if the original copyright date is 1923 or after.** Some of this music has been signed back to composers and arrangers or been sold to other publishing companies, some is available on a print on demand basis, and some, I’m sorry to say, is just no longer available. Check with the publisher to find out how a “POP” title stands.

- c) **You may make an arrangement of anything with a copyright date of 1922 or before without asking for copyright permission to do so.** This applies to United States copyright – remember that copyright laws in other countries are different. To arrange anything with a copyright date of 1923 or later, you will need to contact the original copyright holder to get permission, regardless of the use you have in mind for this arrangement. Generally speaking, these kinds of transactions have two stages:
- 1) **Contact the copyright holder to create an arrangement to be performed by your own group only.** This is the simplest transaction and copyright holders are generally very good about giving permission for a nominal fee and sometimes even at no cost. Be aware that on occasion this permission is denied, and then you have to move on to the next project.
 - 2) **If you are seeking to publish your arrangement, this is a transaction between the publisher and the copyright holder.** So you send the arrangement to the publisher; if the publisher is interested in publishing it, it is the publisher's responsibility to work out the license with the copyright holder because, of course, you as writer will sign any claims to copyright over to the publisher as part of your contract. Then the publisher will have, literally, the right to copy the arrangement and distribute it.

The best rule of thumb in creating an arrangement is – if you have ANY doubt at all about whether the material is under copyright, do NOT put pen to paper (or finger to computer keyboard) until you are CERTAIN that you have the proper permission in place.

- d) **Playing from a piano score is legal ONLY if you have secured permission from the copyright holder of the piano music.** This is because normal use of a piano score is for one person to purchase the score which is what they play from. For the bell choir to play from a piano score, it is necessary to MAKE COPIES of that piano score, and ANYTHING involving making copies of material that is protected under copyright law must have the proper permissions and fees taken care of.

- 5) **Normal wear and tear counts under copyright law.** Turning pages and marking them up and just aging can cause damage to printed music. But it's still under copyright and unless you have a special license like you get at Sonology Music and STEP and other publishers set up for such things, here's what this means to you:
- a) When copies of music have worn out to the point that you'd like to replace them, you DO need to purchase new copies. You are not allowed to just run them off!
 - b) Here's one I had trouble believing myself. According to the letter and spirit of the copyright law, you are not allowed to put music in protective sleeves and make all your markings on those. This one seems excessive to me :), but the thought is that marking and maneuvering the pages is part of normal wear and tear and therefore part of the normal cycle of needing to purchase replacement copies, for which publishers and writers get paid. So there you have it. :)
 - c) For Sonology Music, STEP, and other publishers that provide limited copyright licenses, refer to your license or contact the company on their policy concerning replacement copies. Generally, they don't mind if you just need to make a replacement copy, but they will ask that you re-purchase a damaged master.
 - d) Here is a consideration that is debated. Some copyright holders feel it is illegal to, say, run off a back page to avoid an awkward page turn. The thinking is that the page turns are again normal wear and tear which is part and parcel of using printed music. Other copyright holders feel this falls into the category of "normal use". I find it hard to believe that this would be strictly enforced, but it would be prudent to ask the copyright holder when you have this situation.
- 6) **CCLI and other contemporary church licenses.** The best advice here is simply to read your license thoroughly and ask any questions you have concerning what is covered and what is not. Most handbell music, including music offered under a license like Sonology Music and STEP and others, and including arrangements of contemporary tunes included in other ways in CCLI and other licenses, is NOT included in these licenses. So having your CCLI license does NOT mean that you have carte blanche to make copies of RingingWord's arrangement of Almighty, for instance. However, CCLI and similar licenses often do have provisions for creating certain arrangements of the music they administrate, and these arrangements can be for handbells or include them. Again, check your license thoroughly!
- 7) **Archival recordings and recordings made to minister to shut-ins and the like are legal without special permissions.** This assumes, of course, that no money changes hands for these recordings (except obviously to purchase the tapes or CD's themselves, which is clearly legal). If for some reason you are making a large quantity of recordings, even if you are giving them away it would be best to contact the publishers (copyright owners) to take care of any fees they may have for larger projects. Odds are that for a charitable project of some kind they will not charge you anything, but it's important to be certain.

- 8) **When creating a recording as a fundraiser or for purchase, it is necessary to make certain that you have your recording license in place for EVERY piece recorded.** This is not, strictly speaking, asking "permission" to record, as the publisher of a printed piece can't deny you the right to record if the piece has ever been recorded before. However, you DO have to pay the licensing fee. This is almost never waived and is required for EVERY piece you record. Simply contact each publisher and they will help you to make the proper arrangements. This is not an expensive prospect – 9.1 cents per CD per track at this writing. Of course, this does add up if you have a lot of tracks and are making a lot of copies of the CD, but that is simply a matter of taking this expense into account when going into this kind of project.
- 9) **Video recording has the same types of rules.** For archival or other purposes where no money changes hands, you do not need permission. Again, if for some reason you are making a large quantity that you are distributing for free, you need to contact the publishers (copyright holders) and take care of any fees they may have for larger projects. Chances are you won't be charged anything, but you need to check. For any project where money changes hands – for a video as a fundraiser or that people purchase for instruction or entertainment – you need to contact EVERY copyright holder and pay the proper licensing fees. Again, this isn't an expensive prospect, though it costs more than for audio recordings, and needs to be put on the "expenses" side of your ledger when taking on this kind of project.
- 10) **GENERAL RULE: If you can think of ANY way in which even ONE PENNY changes hands as a result of copying even one page or recording or performing even one note, you need to check into the copyright licensing and make sure you have your paperwork and proper fees in order!**
- 11) **HERE'S THE MOST IMPORTANT THING YOU WILL EVER LEARN ABOUT COPYRIGHT: WHEN IN DOUBT, ASK!** Copyright laws change, different copyright holders have different policies concerning copyright permissions, and there is never ANY harm in asking your question and finding out what steps you need to take, or in discovering that there is nothing you have to do after all!

These are simply general guidelines that I hope are easy for you to remember and that you can refer to easily along the way. Below is a short list of resources for up-to-date and more detailed considerations of copyright law.

Resources:

The United States Copyright Office – <http://www.copyright.gov>

Bitlaw – <http://www.bitlaw.com/copyright>

ASCAP – <http://www.ascap.com>