

Copying Under Copyright

A Practical Guide to Making Copies under Copyright

This outline is intended to be a guide to the major requirements of the Copyright Law as they apply to users of printed music, to inform them so that they may maintain proper standards of ethics, and help protect themselves, their schools, colleges and organizations from incurring liability or subjecting themselves to the possibility of being sued.

This outline does NOT presume to be a comprehensive summary of the United States Copyright Act as it stands of this writing in 1999. It does NOT attempt to deal with all the issues covered by the legislation, nor does it provide answers to many of the legal questions. The purpose of this outline is to inform all users of printed music of the relevant basic provisions of the statute.

COPYRIGHT-What Does It Mean?

Under the U.S. Copyright Law, copyright owners have the exclusive right to print, publish, copy, and sell their protected works. The copyright owners of the books and music you purchase usually are indicated on those publications.

The printed music you use reaches you as a result of the collaboration of a number of people:

- the composer or arranger who devotes her or his time and creative effort
- the publisher who invests time and money
- your local music retailer who supplies your musical needs.
- Whenever printed music is copied without permission, you are STEALING from composers/arrangers
- publishers
- music retailers

THE RIGHTS OF OTHERS

The U.S. Copyright Law is designed to encourage the development of the arts and sciences by protecting the work of the creative individuals in our society—composers, authors, poets, dramatists, choreographers and others.

It is essential to the future of printed music that the Copyright Law be upheld by all. Composers, arrangers, publishers and dealers are losing a significant percentage of their income because of illegal photocopying. This loss of revenue ultimately means that less

and less printed music is available on sale, short print runs mean higher prices for what is available, and dealers are no longer able to afford to carry large stocks of sheet music.

Copyright owners have every right to prosecute offenders under the U.S. Copyright Law. To date, there have been a notable number of court decisions against individuals, churches, colleges, and other institutions for violations of the Copyright Law-some involving substantial fines.

WHAT YOU MUST NOT DO!

The following are expressly prohibited:

- Copying to avoid purchase
- Copying music for any kind of performance (note emergency exception below)
- Copying without including copyright notice
- Copying to create anthologies or compilations
- Reproducing material designed to be consumable such as workbooks, standardized tests and answer sheets
- Charging students beyond the actual cost involved in making copies as permitted

WHAT YOU CAN DO!

What you can do without having secured prior permission:

- Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.
- For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement, or aria but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.
- Printed copies which have been purchased may be edited OR simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.
- A single copy of recordings of performance by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
- A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

PENALTIES FOR INFRINGEMENT

The remedies provided by the law to a copyright owner mean that anyone found making illegal copies, or otherwise infringing, could face:

Statutory damages of from \$750 to \$30,000 and, if the court finds willfulness, up to \$150,000; and if willful infringement for commercial advantage and private financial gain is proved, fines of up to \$250,000 and/or five years' imprisonment, or both.(as of March 1, 1989)

OUT-OF-PRINT MUSIC

Sometimes, music may be erroneously reported to be out-of-print. If you are in doubt and it is vital that you obtain the music, write directly to the publisher. Only the publisher or copyright owner has the right to confirm that a title is out-of-print. If a title is out of print, many publishers will make arrangements for you to obtain a copy.

THE MOST FREQUENTLY ASKED QUESTIONS

Why Can't I Copy Anything I Want?

It's against the law, other than in very specific circumstances, to make unauthorized copies of copyrighted materials.

What If I Am Faced With A Special Situation?

If you want to include copyrighted lyrics in a song sheet-arrange a copyrighted song for four baritones and kazoo-or make any special use of copyrighted music which the publisher cannot supply in regular published form, the magic word is...ASK. You may or may not receive permission, but when you use someone else's property, you must have the property owner's permission.

What If There's Not Time To Ask?

That makes no difference. Think of copyrighted music as a piece of property, and you'll be on the right track. Plan ahead.

What About Photocopies That Are Now In Our Church/School/Library?

Destroy any unauthorized photocopies immediately. Replace them with legal editions.

Can I Make Copies Of Copyrighted Music First And Then Ask Permission?

No. Permission must be secured prior to any duplication.

What If I Can't Find The Owner Of A Copyrighted Song. Can I Go Ahead And Copy It Without Permission?

No. You must have the permission of the copyright owner. Check the copyright notice on the work, and/or check with the publisher of the collection in which the work appears. Once you have this information, write to the copyright onwer.

As A Soloist, Is It Permissible For Me To Make A Photocopy Of A Copyrighted Work For My Accompanist?

No. Permission for duplication, for any purpose whatsoever, must be secured from the copyright owner.

Is It Permissible To Print Words Only On A One-Time Basis, Such As In A Concert Program?

No. Permission must be secured prior to any duplication. Using “just the words” makes no difference.

But What About Items That Are Out Of Print?

Most publishers are agreeable, under special circumstances, to allow reproducing out-of-print items, but again, permission must be secured from the copyright owner prior to any duplication.

Can I Make A Transparency Of A Copyrighted Song For Use By Overhead Projector?

No. The making of a transparency is a duplication, and permission must be secured from the copyright owner.

Can I Make A Record Or Tape Using A Prerecorded Instrumental Accompaniment Track?

Two permissions are necessary here. One is from the copyright owner of the selection to be recorded, and the second is from the producer/manufacturer of the original record.

Can I Make A Band Arrangement Of A Copyrighted Piano Solo? Can I Make A Flute Arrangement Of A Copyrighted Work For Clarinet?

No. Making any arrangement is a duplication, and permission must be obtained from the copyright owner.

What About The Photocopiers Who Don't "Get Caught"?

They force the price of legal editions higher. They enrich the manufacturers of copying machines at the expense of composers, authors, publishers and music retailers. They risk embarrassment from professional colleagues who understand the law; and they risk fines and jail sentences if taken to court. Frankly, we cannot imagine what kind of school, church or professional musician would derive satisfaction from being a thief.

Remember, any use of a copyrighted work for any purpose-for church, for school, for a non-profit organization-to be sold, to be rented-“just for our church”-words only-“we’re not selling copies”- emergency use-failure to locate the owner-or any other reason or justification-requires permission BEFORE any duplication or copies can be made.

<https://www.mpa.org/copying-under-copyright/>

MUSIC PUBLISHERS ASSOCIATION *of the
United States*

Education and Advocacy

