

The Musician's Guide to Copyright Law

By Kevin Downing and Damian Broadley

I frequently get asked questions like, "What is copyright?" "Can I write the lyrics out to my favourite songs?" and "Can I record someone else's song and sell it?" "Why can't I just photocopy music?" or "Why can't I just copy a CD for my friend?"

All these types of questions come under one general heading, which is copyright law.

What is Copyright

Copyright means the right to copy someone else's work. When a person writes a song, a book, or even writes anything like this page you are reading they automatically have a legal protection called a copyright. That stops anyone else from stealing the work and selling it for profit, or just copying it for a friend rather than getting the friend to buy their own.

Copyright also stops them from changing it or using it without permission. For example Mick Jagger and Keith Richards rarely allow anyone to use their songs in radio or television commercials, although they did allow Microsoft to use the song *Start Me Up* (the "Windows 98" promotion) for a hefty fee.

You can recognise a copyright work when you see one by the letter C in a circle either at the beginning or the end of someone's work. The date it was written and then the author's name(s) follow it. The one for this work is at the bottom of the page, please take a look now. Although most authors will note on their written work that it is the subject of copyright, if they don't it doesn't mean that the work is not the subject of copyright.

Copyright Breaches

If you breach a copyrighted work you can expect to be summoned to a court of law where the judges take copyright breaches very seriously. People being caught can be fined many thousands or even hundreds of thousands of dollars depending on the work as well as having the work they have copied taken away from them and having to pay damages to the owner of the copyright.

Many high profile people have been caught in this trap like George Harrison with the song *My Sweet Lord*. The court battles are still going on for many musicians who have copied someone else's work. Not only are they very costly, but they involve a lot of time and create a bad name for the person cited. I must say that it is difficult when you have been playing music for a long time to know if what you have written has been done before because you have so much music going through your brain.

The Public Domain

Some works are not covered by copyright because they are in what we call the “Public Domain”. The public domain means that anyone can use a song because it is now out of copyright. A copyright normally lasts for fifty years from the author’s death. Therefore, for example, Mozart’s works are all out of copyright.

Multiple Copyright Owners

However, it is not so simple just to say any of Mozart’s music is fair game. When you hear a piece of music on the radio there are several different copyrights and copyright owners involved. There is copyright in the original musical composition and lyrics which will be owned by the composer/lyricist, although they may be out of copyright, as in Mozart’s case. There will also be copyright in the particular recording of that music which will probably be owned by the record company. Finally, there is also copyright in the broadcast of the recording that has been transmitted by the radio station. If you were to record some music off the radio you could be infringing three or four different copyrights!

The same applies to sheet music. The composition itself is owned by the composer and the words by the lyricist, but there is also copyright in the layout of the book, which is owned by the publisher.

Getting Permission to Use Someone’s Work

It is often easier than you might think to get permission to use a song in a particular way. In New Zealand two organisations, APRA and AMCOS, represent composers, lyricists and publishers of music in relation to their copyright. These organisations have links to similar overseas organisation and can give a license to use almost any song in a broadcast, live performance or recording and even to reproduce sheet music for educational purposes. Their web address is <http://www.apra.com.au/>. If you are a published composing musician you should be a member of APRA.

Copyright can be a really confusing issue for musicians and I recommend that you familiarise yourself with what copyright is and what you need to know to stay legal. If you are ever in doubt always see a specialist intellectual property or copyright lawyer. You can find one in your local yellow pages or call one of your local law companies who will put you in touch with a specialist.

The Laws are Not the Same Everywhere

Most countries have a similar copyright law, but they do tend to be slightly different from country to country so don’t presume that they are the same everywhere. If you are in the Australia, New Zealand or the Pacific area here is a good site to visit for more information <http://www.apra-amcos.com.au/search.aspx?q=copyright+>
If you are in the USA here is a good site to visit <http://www.copyright.gov/>
If you are in Europe this is the British site <http://www.ipo.gov.uk/>

If you want to buy a book on the subject I have recommended a good one “The Copyright Handbook” by Stephen Fishman.

Would You Like to Be Ripped Off?

In short, it is illegal to photocopy music, and rerecord CDs for yourself no matter what country you are in. Just think that if YOU were the owner of the work how would you feel if everyone began ripping you off? I think the worst scenario would be that all writers of music books and songs just stopped producing because they couldn't make ends meet. That is a real possibility.

Many people think that if you have a book or song published that the author automatically becomes a millionaire. That is simply not true. Research shows that only a very small minority makes a living writing songs and books, and an even smaller minority goes on to become millionaires.

To conclude, it is illegal to copy or change someone else's music without permission as well as rerecord a CD for a friend to avoid purchasing it. The copyright laws can be quite complicated so if you cannot understand them, make sure you see an intellectual property lawyer first. It might save you a lot of hassles later.

The copyright lawyer I use in New Zealand is Damian Broadley who helped me write this article. You can contact him at

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Happy music making.

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