

The Nuts and Bolts of Music Copyrights

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Introduction to Copyrights

What is intellectual property?

Intellectual Property (IP) is a fancy term for the thoughts and creations of people. These creations can include works of art, music, paintings, books, etc. By law, the creator owns his project, and he can allow or disallow its use by others. Different kinds of protections (copyrights, patents, etc.) are used for different kinds of projects. Songs are protected by copyrights.

What is a copyright?

When a song is written, the writer automatically owns it. When he registers his copyright, there is a public record of this ownership; and when a song is copyrighted, the owner can sue others for any unapproved use of his song.

When you buy a car, you own it; and you can decide who may or may not use it. Similarly, when you write a song, you own it; and you legally have the right to allow or disallow others to photocopy, arrange, or record your song. If you break the copyright law, you can be required to pay fines.¹ Depending on the situation, you can be fined for civil damages that are \$150,000 per song; and you can also be fined for criminal damages, a fine that can be \$250,000.

Eventually, copyrights will expire. When a song's copyright has expired, the song is said to be in **public domain**. When a song is in the public domain, it means that the song can be used freely; and no permissions are required. Over the years, Congress has changed the copyright law many times; therefore, copyrights last different amounts of time, depending on when a song was written. For a song written today, the copyright lasts for the entire life of the composer plus 75 years.

In the hymnal, some songs are in the public domain; others are under copyright. For example, "Glory to His Name" by Elisha Hoffman and John Stockton is in the public domain, but "Heaven Came Down" by John W. Peterson is still under copyright. Most of the time, copyrighted songs bear a copyright notice, but public domain songs do not.

For more detailed information about copyright law, click here to view the Copyright Office's circular entitled "Copyright Basics." <http://www.copyright.gov/circs/circ01.pdf>

¹ In some cases, additional penalties are given, including jail time.

What does copyright mean to me?

If you want to duplicate a copyrighted song in any way, you must have the permission to do so. You must find who owns the song and purchase a license from them. Different situations require different licenses. The three most common licenses used for church music ministry are listed here:

1. **Mechanical License** – If you are going to use a copyrighted song on a CD, the permission you need is called a mechanical license. For example, if you want to record a group in your church singing a copyrighted song, you need to obtain a mechanical license.
2. **Print License** – In order to photocopy, transcribe, or alter the sheet music of a copyrighted song, you must obtain a print license. This is often a need when songs go out of print and can no longer be purchased. Keep in mind that an out-of-print song is not the same as public domain. All laws still apply if the song is copyrighted.
3. **Digital Download (DPD) License²** – If you have recorded a CD and wish to make it available online via iTunes or any other means, you must obtain a digital download (DPD) license.

How do I find who owns my song?

First, if you have the sheet music for the song, you should make note of the title and author found at the top of the page. In many cases, the copyright owner is listed in the copyright notice at the bottom of the first page. Once that information is obtained, start by searching the three main *copyright clearinghouses* in the United States.

A *clearinghouse* is a company that provides information about copyright holders. The three main clearinghouses are ASCAP, BMI, and SESAC. Most composers and publishers are associated with one of these companies, and their contact information can be obtained there.

What if I can't find my song?

If you do any amount of licensing for your ministry, you will find that, from time to time, a song cannot be found easily. If you cannot find a song by using the basic resources described here, you will have to creatively search for the copyright owner. This may require Internet searches, making phone calls to leads, etc. If you absolutely cannot find a song, you may need to make royalty payments to your state government.³

² DPD is an acronym for Digital Phonorecord Delivery.

³ This rather complex process falls under unclaimed property (escheat) law, and it is typically handled by the state controller's office. The details of that process are beyond the scope of this document.

How do I obtain a license?

Most of this will be done on the Internet, though occasionally it is necessary to write a letter or call publishers and administrators. Most major administrators will accept credit card payments, but some require that you pay with a check. Using the Internet is certainly the most convenient method.

The next important terms to understand are *publishers* and *administrators*. The *publisher* is the company that owns the copyright. Oftentimes, publishers outsource the management of their copyrights to an *administrator*. The *administrator* then issues licenses and collects fees on behalf of the publisher. A partial list of administrators can be found on pp. 6-9 of this tutorial. Some widely used administrators are Music Services, Harry Fox Agency, BMG Chrysalis, EMICMG, and Clearbox Rights. Keep in mind that, in order to find what you need, you might need to browse information from clearinghouses, administrators, and even other sources.

When you are obtaining a license, you will be asked to fill out a form that gives information about the song and about your use of it. You will typically need to provide at least these details:

- Name of the song
- Who wrote the words
- Who wrote the music
- If you are recording the song, you will need to know how long it is.

The copyright owner (or his representative) will get your license request and your payment, then provide you with permission in writing. Remember, you do not merely need a license; you need a **signed** license. When a license has all the required signatures, it is said to be *fully executed*. With your fully executed license, you can reproduce the song according to the terms of the license. If you need additional copies, you need to get a new license.

On the following pages, there is specific information about how to navigate many of the websites associated with copyright permissions. Remember, websites frequently change. The information here was effective as of January 2013.

Clearinghouses

Remember, you may need to search in many places before you find the information you need. Below is a step-by-step process for using the search engines of the three major copyright clearinghouses in the United States.

ASCAP

- Go to the URL address <http://www.ascap.com/>.
- After the website loads, notice the [ACE / Repertory](#) menu at the top right hand side of the page and click the [Go](#) button.
- Here, choose which of the following will be searched for: [Title](#), [Writer](#), [Performer](#), [Publisher](#), etc.
- Type in the song/piece specific information and click [Search](#).
- Locate the song/piece.
- Click on the title to pull up information on [Publisher\(s\)](#), [Administrator\(s\)](#), [Performer\(s\)](#), etc.

BMI

- Go to the URL address <http://www.bmi.com/>.
- After the website loads, mouse over the search menu in the main toolbar at the top of the page.
- Click in the areas under [Repertoire Search](#) to type in the [Artist](#), [Publisher](#), [Songwriter/Composer](#), [Title](#), or [BMI Work Number](#).
- Click [Go](#).
- Read the [Conditions and Restrictions Regarding use of the BMI Repertoire](#).
- Click [Accept](#).
- Scroll through the list until the song comes up.
- Click on the Title to pull up [Songwriter/Composer](#) and [Publisher\(s\)](#) information.

SESAC

- Go to the URL address <http://www.sesac.com/>.
- After the website loads, click the [Repertory](#) menu button located at the top center of the screen.
- Click the [Continue](#) button.
- Fill in the [Repertory Search](#) areas on the next page.
- Click [Search Repertory](#).



Figure 1: Finding the Song Title

- Scroll until you find the desired song title.
- Click the publisher company listed to pull up specific information about that song.

SESAC is unique in that you can sometimes procure a license from them. If that is necessary, follow these steps to request a license:

- At the top of the home screen (<http://www.sesac.com/>), mouse over the menu listed as Licensing.
- Scroll down to the Obtain a License button.
- Click the Obtain a License button.
- Choose the desired license type.
- Fill in as much information as possible for the desired license.
- Click Submit.

Figure 2: SESAC Licensing

The screenshot shows a web form for SESAC licensing. It contains the following fields and a button:

- State:
- Zip:
- Phone:
- Fax:
- Email:
- Submit:

Another Useful Website

CCLI

- Go to the URL address <http://www.ccli.com/>
- After the website loads, scroll to the bottom of the home page and notice the Song Search area.
- Type in the information of the specific song being searched for.
- If more than one result appears, scroll until that particular song is found.
- Click on the song title to view the publishing information on the resulting page.

Administrators

Now that you know everything you need to know about the song, you must find where to purchase a license. As you become more familiar with copyrights, you may find it easier to skip the clearinghouse search and go straight to the administrators you know. Below is a step-by-step process in using some of the major publishers/administrators.

Music Services

To use Music Services for licensing, you must first register at their website. This is a simple process, and directions can be found on the home page at <http://www.musicservices.org>.

Searching for music

- Go to the URL address <http://www.musicservices.org>.
- Click the [Login](#) option on the right hand side.
- Sign in using your username and password.
- After the website loads, click the [Search](#) button in the 'Licensing' menu.
- Proceed to fill in the required Title, Writers, and Publishers fields for the song.

Note: If the song does not show up, try filling in only one or two of the fields, part of the title, or an alternate title that may also be used. For example, "When I Survey the Wondrous Cross" may be abbreviated to "When I Survey."

Requesting a license

- Click the song title to be brought to the next screen.
- Verify that you have selected the correct arrangement by the correct composer.
- Select the correct license type (mechanical, DPD, etc.)
- Click the [Request License](#) link.
- Fill out as much information as is possible.
- Click [Continue](#).
- Review the song information.
- Click [Finalize Request](#).
- Fill out mailing and payment information.
- Click [Send Request](#) if finished or [Modify Request](#) if any modifications are to be made.

Harry Fox Agency

How to create a Songfile account

- Go to the URL address <http://www.harryfox.com/public/songfile.jsp>.
- Click the [Create Account](#) button in the lower left hand portion of the screen.
- Read the [Terms of Use](#) document, select the [Accept](#) option, and click [Continue](#).
- Fill in the required information and click next.

Searching for music

- Go to the URL address <http://www.harryfox.com/index.jsp>.
- Mouse over the menu that reads [License Music](#).
- Scroll down and click the [Mechanical Licenses](#) link.
- Click the link [Click To Access Songfile](#).
- Click the [Public Search](#) button
- Read the “Terms of Use” document and click [Accept](#).
- Click [Continue](#).
- Enter Song Title and Writer information into the corresponding blanks.
- Click [Search](#).
- Once the song is found, click the title for publishing information.

Requesting a license

- Login to your HFA account at the homepage.
- Click the link to your Songfile.
- Click the link [Get a license](#).
- Click the desired license request form and download.
- Fill out the required information.
- Purchase the license using PayPal or credit card.

EMI CMG Publishing

For a detailed tutorial of licensing through EMICMG, download their tutorial from http://www.emicmglicensing.com/Static/Images/NonComm_Website_Tutorial.pdf.

Search and request a license

- Go to the URL <http://www.emicmglicensing.com>.
- If a license for less than 5,000 manufactured CD's is being requested then click the button that reads [Click Here to Use Our Music](#).
- Answer the questions "[Are you a commercial licensee?](#)" and "[Do you plan to use this music in North America?](#)"
- Select the desired license type from the list.
- Fill out the resulting informational fields.
- Pay on the spot using credit card or PayPal.

Note: When purchasing a license for less than 5,000 units (non-commercial), you are not able to save the information you've added. If you begin to request the license but you do not pay at the end, you will be required to start from scratch the next time you try.

Clearbox Rights

Search and request a license

- Go to the URL <https://www.clearboxrights.com/>.
- Click [Go](#) next to the option that reads "I am interested in obtaining a license."
- Select the kind of license you would like.
 - Limited quantity – less than 5,000 units
 - Commercial quantity – more than 5,000 units
- At this point, you may need to create an account for licensing. Follow the steps necessary.
- Login to Clearbox account.
- Search for the song by title or author.
- Select the song you desire and follow the instructions to request a license.

Gaither Copyright Management

Requesting a license

The Gaither Copyright Management does not implement the use of online licensing. Therefore, they must be reached through written letter or by telephone, email, or fax. Their contact information can be found in the directory at the end of the tutorial. You will have to contact them to find out if they control a copyright on your song and also to request a license.

Gaither Copyright Management requires a \$10.00 licensing fee for each individual license (excluding reorders) along with the standard mechanical rate (9.1¢). Any reorders should be paid by the then-current statutory mechanical rate and be accompanied by a photocopy of the original license.

BMG Chrysalis

Obtain a license

- Go to the URL <https://www.bmg-e-license.com>.
- Follow instructions to create an account.
- Log in.
- Click the Search at the top of the page.
- When you find the song, add it to your cart.
- Fill out all necessary information.
- Request license.
- At this point, you must wait for them to approve the license request.
- Upon approval, log into BMG account and select My Licenses.
- If the license you desire has the Checkout option next to it, click it.
- Pay for license.

Key Terms and Definitions

Writer: The person(s) who wrote the lyrics to the copyrighted song. Sometimes, this person(s) is also the composer.

Composer: The person(s) who wrote the music to the copyrighted song. Sometimes, this person(s) is also the writer.

Clearinghouse: An online database of all copyrighted music. It can be used to find important information about a copyrighted song, such as the author/composer, publisher, and contact information. The major clearinghouses are ASCAP, BMI, CCLI, and SESAC.

Repertoire/Repertory/Music Library: An inventory of every song an administrator has the right to license.

Publisher: The entity that distributes a copyrighted song. Word Music and Brentwood-Benson Music are examples of publishers.

Administrator: A company that manages the licensing of music on behalf of the publisher. In short, the administrator acts as a middleman between the author and the licensee. Music Services, Harry Fox Agency, and BMG Chrysalis are examples of administrators.

Print license: A license needed to photocopy or else manufacture any form of printed music of a copyrighted song.

Mechanical license: A license needed to manufacture and distribute sound recordings of a copyrighted song in a physical format (CD, Cassette, DVD, etc.)

Digital download license: Sometimes abbreviated as DPD; a license needed to upload and distribute song recordings over the Internet through means such as iTunes.

Percentage of Ownership (%): This number, often displayed on the administrator's database, indicates what percentage of the copyright the administrator controls. From time to time, one administrator may control a percentage of the copyright while another administrator would control the rest. In such a case, one would need to obtain a license from both entities.

Royalties: The money paid to the copyright holder to procure a license.

Statutory rate: The rate set by Congress to be paid per unit for any given license. For example, the statutory rate is currently 9.1¢ per unit. (Manufacture 1,000 CDs, pay \$91.00 per song).

Directory

ASCAP

(800)-505-4052

BMI

nashville@bmi.com

10 Music Square East

Nashville, TN 37203-4399

(615) 401-2000

SESAC

55 Music Square East

Nashville, TN 37203

615-320-0055

CCLI

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