

Copyright Laws and Music in the Church

Introduction

The **Copyright Law of the United States** tries to encourage the creation of art and culture by rewarding authors and artists with a set of exclusive rights. Copyright law grants authors and artists the exclusive right to make and sell copies of their works, the right to create derivative works, and the right to perform or display their works publicly. These exclusive rights are subject to a time limit, and generally expire 70 years after the author's death.

United States copyright law is governed by the Copyright Act of 1976. The United States Constitution explicitly grants Congress the power to create copyright law under Article 1, Section 8, Clause 8, known^[1] as the Copyright Clause. Under the Copyright Clause, Congress has the power:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.^[2]

The United States Copyright Office handles copyright registration, recording of copyright transfers, and other administrative aspects of copyright law.^[3]

History

US copyright law traces its lineage back to the British Statute of Anne, which influenced the first US federal copyright law, the Copyright. The Copyright Act has been updated several times, including, notably, the Copyright Act of 1976.

Purpose of the Copyright

The goal of copyright law, as set forth in the US Constitution, is "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."^[4] This includes incentivizing the creation of art, literature, architecture, music, and other works of authorship. As with many legal doctrines, the effectiveness of copyright law in achieving its stated purpose is a matter of debate.^[5]

Works subject to Copyright Laws

The United States copyright law protects "original works of authorship," fixed in a tangible medium^[6] including literary, dramatic, musical, artistic, and other intellectual works. This protection is available to both published and unpublished works. Copyright law includes the following types of works:

- Literary
- Musical
- Dramatic
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Audio-visual works
- Sound recordings
- Derivative works
- Compilations

- Architectural works

Authors own the exclusive rights to their compositions. This is called a **copyright** and the composition is protected for many years--even if the copyright is never registered with the copyright office. A composition is considered to be "intellectual property" The copyright may be sold, transferred, or inherited--but the copyright still endures.

If music or lyrics are under copyright protection:

- **you CANNOT reproduce the music or lyrics**
- **you CANNOT distribute the music or lyrics either for free, for no profit, or for profit**
- **you CANNOT perform the music or lyrics in public**
- **you CANNOT play a recording of the music or lyrics in public--even if you own the CD**
- **you CANNOT make a derivative work or arrangement for public use in any form**

Public Domain

Fortunately, copyrights eventually expire and the owner no longer has exclusive rights. All compositions not protected under copyright law are said to be in the **public domain**. A work is in the public domain when no one on this entire planet can find any law which gives them legal claim to that property. Public domain is the complete absence of any law allowing ownership of a property. If you can prove that a composition is in the public domain, you can use the work any way you can imagine. You can arrange, reproduce, perform, record, publish it, and use or sell it commercially any way you like.

Musical Works and Sound Recordings

A **Musical Work** and a **Sound Recording** of a Musical Work have separate and extremely different copyright protection.

Musical Work, Song, Composition	Lyrics, Melody, and Musical Arrangement of Notes that Define a Song or Musical Composition	Sheet Music
Sound Recording	The Process of Fixing Music or Sound on a Medium that can Reproduce and Play Back the Music upon Demand	CD, Record, MP3, WAV

For example, the children's song, "Mary Had A Little Lamb" is absolutely in the public domain worldwide, and it can be freely used by anyone. However, in the USA, no sound recordings of "Mary Had A Little Lamb" are in the public domain. It is **imperative that you understand the difference between a musical work and a sound recording** when using public domain music.

Rule of Thumb for Public Domain Music and Sound Recordings

- Musical Works published with a valid **Copyright Notice of 1922 or Earlier** are in the public domain in the **United States**.
- Essentially **ALL Sound Recordings are under copyright protection until 2067** in the United States.
- **Copyright protection outside the USA** is determined by the laws of the country where you wish to use a work. Copyright protection may be 50 to 70 years after the death of the last surviving author, 95 years from publication date, or other copyright protection term.

Performance Rights Basics

The legal definition of a performance is an instance of music being performed “in a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered.” Most church performances fit those criteria. A performance license grants permission to have these public performances, whether it is a live performance or playing of pre-recorded music. Performance licenses are controlled and managed by performing rights organizations or “PROs.” PROs collect performance license fees for a wide range of uses, from Internet, radio and TV broadcast to stadiums and restaurants.

Churches qualify for an important exemption in the U.S. Copyright Law (section 110[3]), but it is vital that church leaders understand which performances qualify for the exemption and which do not. According to the exemption, the following performances are not infringements of copyright: “Performance of a non-dramatic music work or of a dramatic-music work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly.”

Performance rights organization (PRO)

A **performance rights organization (PRO)**, also known as a performing rights society, provides intermediary functions, particularly collection of royalties, between copyright holders and parties who wish to use copyrighted works *publicly* in locations such as shopping and dining venues. Legal consumer purchase of works, such as buying CDs from a music store, confer *private* performance rights. PROs usually only collect royalties when use of a work is incidental to an organization’s purpose. Every songwriter and publisher who wants to be paid performance royalties is registered with one of these three organizations, which represent more than 16 million songs.

➤ PRO organizations in the United States:

ASCAP – American Society of Composers, Authors and Publishers (non-profit)

BMI – Broadcast Music Inc. (non-profit)

SESAC formally known as Society of European Stage Authors and Composers

Sound Exchange (non-profit) – covers the public performance of sound recordings

What this means for the Church

All churches under U. S. Copyright Law (section 110 [3]) have the right to perform all music including copyrighted sacred and secular music in addition to play pre-recorded recordings **ONLY** during sanctioned worship services.

Churches need additional licenses to:

1. Print and copy music, display music and sell copies of worship services
2. Stream music - Online
3. Broadcast music – TV (Broadcasting inside of the church does not require a license)

Solution: Christian Copyright License International (CCLI)

CCLI is a privately owned company that provides licenses to churches to help them legally present music during services and church sanctioned events.

Licenses CCLI provides:

- CCLI license – Covers churches copying activities that assist with congregational singing, including computer projections, song sheets, bulletin inserts and recording services.
- Song Select – Provides transposable chord sheets, lead sheets and vocal sheets, plus lyrics and audio samples for top CCLI songs.
- Rehearse - Allows you to legally copy and share commercial audio recordings and your own custom recordings for rehearsal purposes.
- Stream - Allows you to legally stream or podcast your live-recorded worship music over the internet.
- CVLI – Allows you to legally show movies for sermons, Sunday school, classes, and special events.

Other Music Service Companies:

- Praisecharts.com – Provides printable worship song lead sheets and arrangements.

CCLI licenses only cover worship music within the church and do not extend outside of the licensed organizations boundaries. Any other use of non-covered music needs to have a separate license filed through one of the PRO organizations.

No license is needed if the music is in the public domain or covered by something like the Creative Commons licenses. As an example, most sufficiently old hymns are in the public domain. CCLI maintains a list of songs that are in the public domain. If all of the songs that an organization uses are in that list, then the organization does not need to pay the CCLI license fee. As of March 2015, CCLI's list contained nearly 24,000 public domain songs.

Conclusion

1. Churches can perform copyrighted music and play pre-recorded tracks during worship services **ONLY**.
2. Composers have the right to be paid for the music they create.
3. When utilizing music check the copyright information to see what you need to do.
4. Make sure you have appropriate licenses before you perform, copy, record music & broadcast music performances.
5. When composing your own music copyright your original music by first making a recording and written copy then submit it to U.S. Copyright Office.

Resources

- United States Copyright Office - www.copyright.gov
- Christian Copyright License International - us.ccli.com
- American Society of Composers, Authors and Publishers (ASCAP) - www.ascap.com
- Broadcast Music, Incorporated (BMI) - www.bmi.com
- SESAC - www.sesac.com
- Sound Exchange - www.soundexchange.com
- Christian Copyright Solutions - apps.christiancopyrightsolutions.com
- Ministry Matters – www.ministrymatters.com/all/entry/4039/do-music-right-three-myths-about-copyright-law
- Renewing Worship – www.renewingworshipnc.org/2011/08/24/the-ccli-license-what-is-legal-and-what-is-not/