

## **Lecture #27 – Copyright Basics**

### **I. Introduction**

One area that many church music programs are likely operating illegally is in the area of respecting copyrights. In this lesson, we will look over some of the basic information on what copyrights are, how to determine copyright status, and how to legally work with copyrighted material.

### **II. What is Copyright?**

According to copyright.gov:

“Copyright is a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression.”<sup>1</sup>

According to The Copyright Alliance:

“A copyright is a collection of rights that automatically vest to someone who creates an original work of authorship like a literary work, song, movie or software. These rights include the right to reproduce the work, to prepare derivative works, to distribute copies, and to perform and display the work publicly.

“To understand how these rights can be used or licensed, it’s helpful to analogize them to a bundle of sticks, where each stick represents a one of these rights. The copyright owner has the right to keep each “stick” for themselves, to transfer them individually to one or more people, or to transfer them collectively to one or more people. In short, copyright allows the owner to choose the ways his/her copyrighted works are made available to the public.”<sup>2</sup>

So basically, copyright is the legal protection someone has over their creation that gives them control over its use.

### **II. Copyright Status**

When you create something like a song, recording, poem, or photograph, it is automatically considered to be copyrighted with you as the owner. This ownership can be sold or transferred.

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<sup>1</sup> Copyright.gov – accessed 11-7-2022

<sup>2</sup> <https://copyrightalliance.org/faqs/what-is-copyright/> - accessed 11-7-22

You do not have to file anything or pay any fees to copyright something, but you can register your copyright with the government to gain better protection. This can prove important if there is any type of dispute over copyright ownership.

When the copyright has expired the work is then in the **public domain**. These works are free from any copyright rights or restrictions and can be used freely. Works can be released directly as public domain if their creator/owner chooses to do so.

Copyright laws change frequently. No joking, you can blame the Walt Disney, Co., for a lot of it. Disney has worked had lobbying to lengthen and strengthen copyright laws to prevent their properties from entering the public domain.

According to information from the Cornell University Library,<sup>3</sup> here is a chart of how long it takes something to become public domain<sup>4</sup>:

Date of Publication <sup>6</sup>	Conditions <sup>7</sup>	Copyright Term <sup>3</sup>
<b>Before 1926</b>	None	None. In the public domain due to copyright expiration
<b>1926 through 1977</b>	Published without a copyright notice	None. In the public domain due to failure to comply with required formalities
<b>1978 to 1 March 1989</b>	Published without notice, and without subsequent registration within 5 years	None. In the public domain due to failure to comply with required formalities
<b>1978 to 1 March 1989</b>	Published without notice, but with subsequent registration within 5 years	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
<b>1926 through 1963</b>	Published with notice but copyright was not renewed <sup>8</sup>	None. In the public domain due to copyright expiration
<b>1926 through 1963</b>	Published with notice and the copyright was renewed <sup>8</sup>	95 years after publication date
<b>1964 through 1977</b>	Published with notice	95 years after publication date

<sup>3</sup> <https://guides.library.cornell.edu/copyright/publicdomain> - a great resource on copyright information!

<sup>4</sup> [https://guides.library.cornell.edu/ld.php?content\\_id=63800150](https://guides.library.cornell.edu/ld.php?content_id=63800150) – accessed 11-7-22

Date of Publication <sup>6</sup>	Conditions <sup>7</sup>	Copyright Term <sup>3</sup>
<b>1978 to 1 March 1989</b>	Created after 1977 and published with notice	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
<b>1978 to 1 March 1989</b>	Created before 1978 and first published with notice in the specified period	The greater of the term specified in the previous entry or 31 December 2047
<b>From 1 March 1989 through 2002</b>	Created after 1977	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
<b>From 1 March 1989 through 2002</b>	Created before 1978 and first published in this period	The greater of the term specified in the previous entry or 31 December 2047
<b>After 2002</b>	None	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
<b>Anytime</b>	Works prepared by an officer or employee of the United States Government as part of that person's official duties. <sup>19</sup>	None. In the public domain in the United States, unless the employee was a civilian member of the faculty of one of 15 service academies and the work in question is a literary work intended for scholarly publication. (17 U.S.C. § 105)

This is for printed materials originating in the U.S. There are separate charts for things like audio recording, unpublished works, and works originating from outside the U.S.

Another thing to consider is that copyright doesn't just cover one form of the copyrighted material. While Beethoven's Fifth Symphony is public domain, a recording of it can be copyrighted. Because you own a songbook does not give you the right to publicly perform or record the songs in the book. In that case you have the right to personally enjoy the songs in the book, but further than that will require extra permission or licensing.

Yes, it is extremely complicated.

### **III. Pitfalls for Churches**

The following are areas that most<sup>5</sup> churches fail to observe copyrights in their music programs.:

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<sup>5</sup> Yes, that's a broad statement but my experience backs that up.

### Copying Sheet Music

The copier is not your friend.

Just because you own a copy of a song in a book does not give you the right to make copies of it. Even if the song is public domain, the arrangement of it may not be.

The best policy is to **NEVER** copy sheet music. If you need extra copies, buy extra copies. It would be good practice to buy at least two copies of songbooks.

### Broadcasting Online and Recording

Any provisions that allow some freedom of use for copyrighted materials in a worship service **DO NOT** allow for the broadcast or recording of the service.

Technically you need special permission to broadcast or record copyrighted materials. There are some services that help with his permission, such as the CCLI Streaming License.

### Showing Videos

If you ever actually read the legal warning on most video recordings, you will see that they only cover private, home use. Showing such a movie to a room full of people is breaking the copyright law. Yes, this even applies to awful Christian movies.

There are services that off site licenses for showing movies. Church Video Licensing International is one company that offers such licenses.

### Graphics and Social Media

Just because you can copy and paste an image from Google does not mean that you have the right to use it. As a safeguard, try sites like Pixabay and Unsplash that have royalty-free images.

## **IV. Obtaining Permission**

### Licensing

Special licenses can be obtained from copyright owners or companies that have agreements with them. The most common one in churches is the CCLI license. Other options include Christian Copyright Solutions and OneLicense.

There is also the option to individually work out licenses with publishers for each song, but it is a lot of hassle.

### Written Permission

Sometimes, especially with out-of-print materials, a publisher may give permission for a certain number of copies to be made. One church I was at did this for an older Christmas play and paid a small fee per copy made.

Whatever the agreement is, get it in writing!

### Public Domain

Public domain works are free to use.

There are some still some considerations through. Just because “Amazing Grace” is public domain doesn’t mean that a choir arrangement of it is or a recording of a singer singing it is.

### Fair Use

Fair Use is a legally grey area that allows for some limited use of copyrighted material. For instance, a copyrighted cover of a book could be used on a news program when discussing the book. Schools can also have some leeway using Fair Use provisions.

### Religious Worship Exception

There is a legal provision in U.S. copyright law<sup>6</sup> that allows an exception for the use of copyrighted materials in a worship service. This states:

“Notwithstanding the provisions of section 106, the following are not infringements of copyright:...

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<sup>6</sup> Specifically §110(3) - <https://www.copyright.gov/title17/title17.pdf>

“(3) performance of a nondramatic literary or musical work or of a dramaticomusical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;”<sup>7</sup>

This provision is very limited and really only covers what happens *inside* the church. It does not cover any sort of recording or broadcast.

## **V. Why Copyright Laws Matter**

Whether you agree with it or not, the misuse of copyrighted materials is viewed by the law as theft. You are using things you have no right to.

Not to bring Scripture into this, but obeying human law is pretty important (Romans 13, etc.)

Most churches simply get by with abusing copyright law because it is either not worth the time of the publishers to go after them or because they don't want to be seen as bad guys going after churches.

## **VI. Copyright Alternatives**

One of the best ways to protect your work is through copyright. However, copyright can become burdensome and limit exposure to material.

You can release songs, books, websites, etc. as public domain, but you lose all control over your creation. No one has to respect your wishes on how the material is used.

One recent alternative to copyright is Creative Commons. These licenses allow you to share work freely but still maintain some control over its usage. For instance, you can make your work shareable and reproducible as long as you are credited and the work is unaltered.

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<sup>7</sup> <https://www.copyright.gov/title17/title17.pdf> - accessed 11-7-22