

On the subject of acquiring copyright **PERMISSION TO ARRANGE**

<http://copyright.cornell.edu/resources/publicdomain.cfm> **PUBLIC DOMAIN CHART** updated January 1 each year

For everything not in public domain, your school, district, governing unit, or performing arts venue should already be paying **PERFORMANCE RIGHTS** - blanket agreements with BMI and ASCAP, at educational rates for *performing* - and if not, you might choose to make your district aware with a simple, documented exchange with your superior. This is not to be confused with PERMISSION TO ARRANGE.

If you recall from class, **PERMISSION TO ARRANGE** is a different sort of permission, a different part of copyright, not included in PERFORMANCE RIGHTS payments. In theory you're not supposed to "put pen to paper" without that permission in hand, but I've heard that "fair use law" (look it up) might encourage a 'trial run' for an arrangement. I always used the "educational purposes" loophole for my arranging students, admonishing you all that it only works for while you are a student. I.e. you can't now get away with arranging a piece for the education of your students, even though that *could* be argued in my book, though an attorney might see otherwise. By the way, a publisher probably will not want you making another arrangement of a title/ensemble matching what they already have published.

'Remember my drawing the spectrum of degree of originality in composing & arranging? Original work is at the left-hand end and a straight transcription is at the opposite extreme. Works that use other music – sometimes not even including the tune/harmony – fall somewhere along that scale, and there are laws governing what is considered stealing, like using someone's entire tune that is under copyright protection. The range involves progressively increasing use of "borrowed" music, such as ...

- ~ a referenced musical quote of a recognizable phrase (such as *dies irae*, but that one is well in public domain!);
- ~ "rhapsody on..." or "fantasia on...;"
- ~ "homage to...;"
- ~ "theme and variations on...;"
- ~ arrangement of [title] including at least *some* original scoring and structure, medley, "Selections from..." and so on; with
- ~ a straight-up transcription at the far right end of the scale.

Some of these – certainly the last two on the list – require **PERMISSION TO ARRANGE** and only rarely does that determination require testimony of an expert witness. If you think you might be stealing, you probably are, so it's best to get permission to borrow the intellectual property of the composer.

Most **copyright permissions** are granted through the publishers holding the copyright. For most titles, go to the "INDEX" searches online - it's really fast, but you must be meticulous. To learn who owns the copyright, check each of these three first:

~ASCAP <https://www.ascap.com/Home/ace-title-search/index.aspx>

~ BMI <http://repertoire.bmi.com/startpage.asp> ...and for the record, if you do not find it at ASCAP or BMI,

~ SESAC <http://www.sesac.com/Repertory/Terms.aspx> .

ASCAP, BMI, and SESAC are largely concerned with PERFORMANCE RIGHTS, but they have the giant searchable databases for finding copyright owners. Copyright ownership gets sold from time to time and often is split among parties, so you must be careful for the remaining 12% owner, for example.

Then, when you have the copyright holders' names and contacts, pursue permission to arrange. Hal Leonard holds at least a percentage of many popular titles and they manage the permission to arrange in an online form: many weeks and many dollars for the process.

<http://www.halleonard.com/permissions/faq.jsp> for requesting permission of titles they hold

Bands of America maintains a great site for general copyright info, including those composers and works requiring a year or two for permission, and some which are a flat "No chance!" and so on. I re-found their source at [http://www.bands.org/public/resourceroom/copyright/copyright\\_doc.asp](http://www.bands.org/public/resourceroom/copyright/copyright_doc.asp) which appears to have most of that information.

Paying someone else to request your permission for you is a waste of money, because you end up doing most of the work yourself and paying that business additionally for their time – kind of like paying a tax preparer to do your EZ tax forms, except that ultimately *you* are on the hook for any errors made. On the other hand, I *have* had to find and request permission through the composer's estate or attorney, but those entities usually granted permission *gratis* (free of charge).

Here is a somewhat related story: when there was considerable argument about taking or not taking the entire marching band to a low-purse bowl game, we rehearsed our best-prepared half-time show, squeezing that in around final exams, not knowing if the trip was on or off. When we finally got the "go ahead" from the higher ups, we got access to "the book" for the bowl host, only to learn that we were restricted to *performing* BMI titles, though we had paid and received PERMISSION TO ARRANGE our half-time show of Gershwin tunes (ASCAP). There was some quick scrambling (or gambling?) among the legal team to find a solution, and I never learned which. The band played Gershwin.

*From a message to a former music education student, edited February, 2015*

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