

GALA LEADERSHIP SYMPOSIUM



Scared Straight: Copyrights & Licensing 101

Fundamentally, copyright compliance is about honoring the creators of our music, helping them make their living from their music so that they can make more of it for us.

Kristan Burkert, Portland Lesbian Choir

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Introductions

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- Tier 1** **Purchasing** choral music, arranging music
- Tier 2** **Performing** choral music
- Tier 3** **Recording** choral music (audio or video)
- Tier 4** **Web or broadcast** rights, synchronization... and more complicated rights

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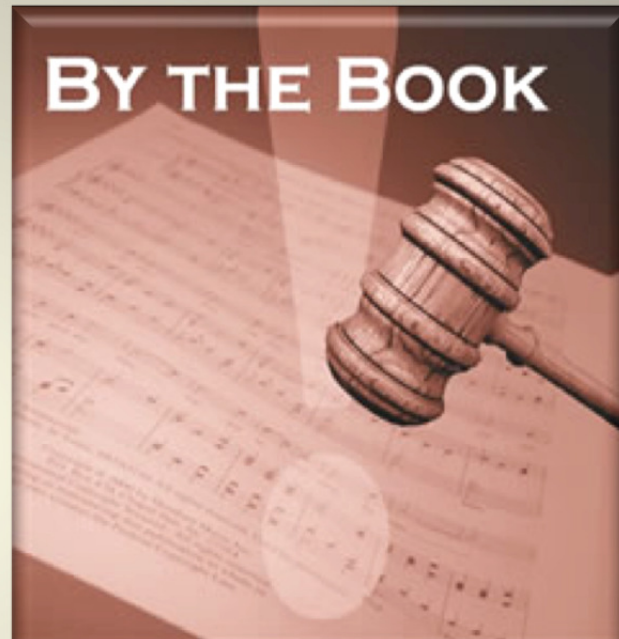
AUGUST 7-10
2014

BY THE BOOK

by **Rob Monath**
Attorney/Music Publisher

(BUY THE BOOK SO WE DON'T GET SUED)

BY THE BOOK



A Simple Copyright Compliance
Method for Musicians and Music Professionals

ROB MONATH
Attorney/Music Publisher

MONATH'S METHOD

Three Questions



1. Does it pass the red-face test?



2. Is there safety in numbers?



3. What does the law say?



MONATH'S METHOD

Three Questions

1. Does it pass the red-face test?

Am I getting something for nothing?

Does it feel like I'm getting away with something?

Is someone not getting paid?

Should any of the revenue go to anyone else?



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Three Questions

2. Is there safety in numbers?

If others are getting permission...

Driving analogy: emergency lane vs. median u-turn

Enlarging a part for the visually impaired

Reference copies



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Three Questions

3. What does the law say?

Tells you what is required

Doesn't say much about how to do it

If #1 and #2 don't stop you, go to the law

Achieve the highest level of comfort possible

Determine your best practices

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Tier 1 Purchasing choral music

A: **Published music** – purchase from distributor

B: **Copying out of print music** – purchase from distributor

C: **New arrangement** – secure permission from copyright holder

D: **Existing arrangement** – secure permission from copyright holder

E: **Original Manuscript** – secure permission from copyright holder

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A: Published music

This one is easy – **BUY your music legally.** One copy for every singer, instrumentalist, ASL interpreter, etc.

1. Independent Music Stores

Musical Source: <http://www.musicalsource.com>

Earth Songs <http://earthsongschoralmusic.com>

2. On-line distributors: JW Pepper www.jwpepper.com

3. GALA Resource Center: search “Repertoire”

Note: if you re-program music that you previously purchased and have lost copies or have a larger choir you must **purchase additional copies.**

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B: Copying Out of Print Music – or from a collection

Someone still owns the music even if it is out of print! Get permission from the copyright holder! Typically start with the publisher to request permission. Most have a web page where you can request permission to print.

Printing from a collection. Most publishers will grant this permission as long as the song is not already published as an octavo.

How to get permission – look for the publisher and/or copyright info on the score .



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All Rights Reserved including Public Performance for Profit

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International Copyright Secured All Rights Reserved

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B: Copying Out of Print Music – or from a collection How to Request a License to Print Music

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Licensing & Permissions Requests

Welcome to Alfred Music Publishing Co., Inc.'s online Licensing website.

[NEW USERS](#) [RETURNING USERS](#)

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C: NEW Arrangement - Requesting a license to arrange

1. **Start the process 6 months** before you want to begin rehearsing. Earlier if a large or complicated arrangement.
2. **Fill out the application completely** or your request may be delayed.
3. **Never make copies or start rehearsing** a piece without permission to arrange in hand.

PIANO SONGBOOKS AND SHEET MUSIC	GUITAR, BASS AND FOLK INSTRUMENTS	EDUCATIONAL PIANO	VOCAL
SOLO INSTRUMENTAL	DRUMS AND PERCUSSION	CLASSICAL	TRADE AND REFERENCE BOOKS

REQUEST FOR PERMISSION TO ARRANGE

All fields are required. All fields are required for each song you enter.

Title:

First Name:

Last Name:

Organization:

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What constitutes an arrangement?

An arrangement is a musical re-conceptualization of a previously composed work. No piece of music can be arranged without permission from the copyright holder unless it is in the public domain.

Costs: Payment to the copyright holder AND payment to the arranger

How to get permission:

Alfred Music Publishing

Hal Leonard

Tresona

Call the **copyright holder** directly (via web, BMI, ASCAP)

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Maintaining a Paper Trail

1. **File** your license in your music library and in your electronic files.
2. **Track chorus login** information and passwords for music publisher accounts on line.
3. **Print arrangement** details at the bottom of each piece of music.

“Permission to arrange and print 30 copies granted to Very Gay Chorus by Lesbian Composer on 8/4/2014.”

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D: EXISTING non-published arrangement - Request a sub license

- 1. Start the request process at least 6 months** before you want to begin rehearsing. Earlier if a large or complicated arrangement.
- 2. Never assume** you can re-use an arrangement simply because another chorus performed it.

Most common licensing options for requesting to re-use an arrangement.

Alfred Music Publishing – existing sub-license

Tresona – licensing assistance especially for large works

Hal Leonard – currently negotiating sub-license options

Contact the **copyright holder** directly

Note: a choir or composer that arranged a piece of music **cannot** grant you the right to purchase that arrangement unless they own the copyright (which is rare).

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D: EXISTING non-published arrangement - Request a sub license



Please select type of license you request:

- Arrangement**
Creation of a new version of an existing composition.
- Sub-Out**
Selling your original arrangement of an existing composition.
- Print**
Use of lyrics or music in a publication (eg. Books, periodicals, and other printed media).
- Mechanical**
An audio recording of a composition on a tape, CD, or Digital Download format.
- Synchronization**
A video recording of a composition on a video tape, DVD, or Digital Download format.
- Broadcast**
A broadcast of a recorded performance for Television, Film and Radio.
- Performance**
Public performance of copyrighted material.
- Photocopy**
Requests to make photocopies of compositions that are no longer in print. Not for festival/adjudication copies.
- Web Posting**
Posting of copyrighted material on the Internet.

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E: Unpublished Manuscript

Negotiate payment with the copyright holder – usually the composer.

1. Put your **agreement in writing** with signatures from both parties and keep a paper trail of your payment to the composer.
2. Agreement should **include how many copies** you have purchased to print and may have a time-limited agreement for use.
3. Ask the composer for **permission to record** their piece and be sure to get them a copy! More on this later.
4. Invite the composer to **rehearse with your chorus** in rehearsal and be sure to invite them to your concert!

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PS. PDF Versions for I-pads and Tablets (a grey area)!

1. See the **GALA Resource Center**: search “Tablets”
2. A **PDF is like a photo copy** of a song: first purchase legal copies for each singer in your chorus.
3. Any singer using a PDF version must **delete the file** after the rehearsal period ends (slippery slope here)!
4. When scanning music to PDF, **include a disclaimer** like:
"This file is for use by current singing members of _____ (your chorus) only. It must be deleted on or before _____ (the day after your last performance.)"

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Which music is in the Public Domain?

Works created after January 1, 1978 will be protected for the life of the last living composer (author) plus 70 years. Copyrights existing prior to that date continue for 95 years from the date copyright was originally secured. All rights can be re-assigned.

Check the **GALA Resource Center** for resources on Public Domain and Royalty-Free Music .

Never assume that a piece of music is in the public domain just because it is old!

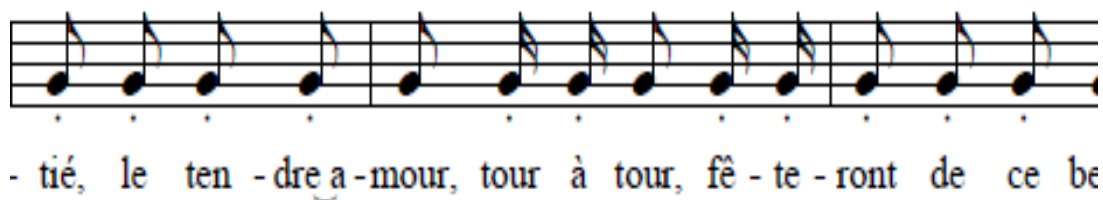
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Choral Public Domain Library

The **Choral Public Domain Library** has over 12,750 available scores and includes texts and translations. Look for the copyright notice below before printing.

www2.cpdlib.org



Copyright © 2004 by the Choral Public Domain Library (<http://www.cpdlib.org>).
This edition may be freely distributed, duplicated, performed, and recorded.

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MONATH'S METHOD

Three Questions



1. Does it pass the red-face test?



2. Is there safety in numbers?



3. What does the law say?

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Scenario:

You find a great piece that you want your chorus to perform. It's a copy of a published work with copyright information, including the owner and the year of issue. Are you allowed to make copies?

Red face?: Very red!

Safety in numbers: Doesn't matter.

The law: All rights reserved.

It is illegal to make photocopies of copyrighted material.

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Tier 1: The risks of non-compliance...

Decide **who in your chorus is responsible** for ordering legal music and make sure they are complying.

The **chorus board is ultimately responsible**. Make sure the chorus budget includes sufficient funding for legal choral music. If you are dramatically under-running your music budget it is not necessarily good news. You **must** follow up and find out why.

Notes: GALA choruses have been **fined** for non-compliance of these laws.

Buying legal music is also an important way to **support composers** and artists.

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Tier 4 Web or broadcast rights, synchronization... and more complicated rights

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Tier 2 Performing choral music

Every chorus is also responsible to pay license fees for each performance that you produce. Most choirs pay an annual blanket fee which covers these licenses.

[BMI](#): Broadcast Music, Inc (US choirs)

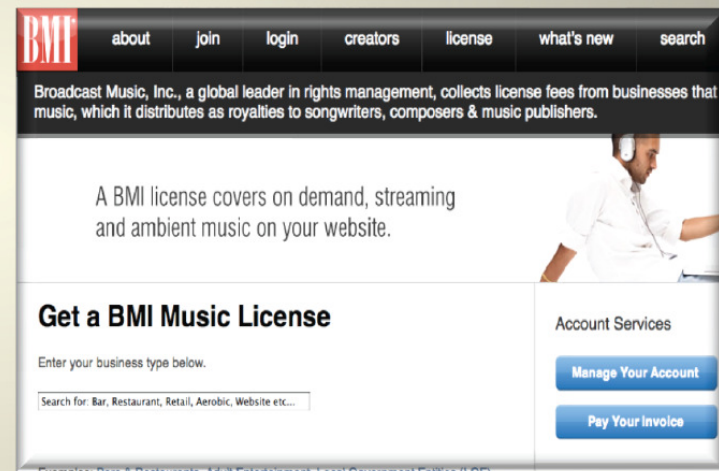
[ASCAP](#): American Society of Composer, Authors and Publishers (US Choirs)

[SOCAN](#): Supports licensing for Canadian and international composers and publishers

Board members need to ask if their chorus has licenses in place with ASCAP and BMI and if the quarterly reports and payments are current.

➤ To perform the work publicly

Join ASCAP and BMI. Go online to license your performances through quarterly reports. This includes submitting dates of your program, size of house, price of tickets, and other information. Fees are nominal and permission to perform published work is not required. If it is not published, contact the owner.



NOTE: ASCAP and BMI are organizations to which composers belong. They receive reports of their work being done (and small royalties). Another reason to be compliant.

Scenario:

You have purchased original copies of a piece for every singer. This is the third time you have performed the piece. Is there anything else you need to do to be compliant?

Red face?: Whiter shade of pale.

Safety in numbers: I would think so.

The law: Performance rights are required.

Purchasing a piece of music does not alleviate you of paying performance fees. Licensing agencies such as ASCAP and BMI handle these rights through regular reports that you provide to them quarterly. These are minimal fees and advance permission is not required for published work.

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Tier 3 Recording choral music

If you record and distribute recordings of copyrighted songs you must obtain a **mechanical license**.

1. [Harry Fox](#) offers an on-line SongFile that may be used if you are producing 2500 or fewer copies of a recording.

2. Alfred Music: www.alfred.com/Licensing.aspx

3. Request a mechanical license directly from the **copyright holder**.

4. [Tresona](#) www.tresonamultimedia.com

- Tresona can assist with securing mechanical licenses.
- You may sell your recordings for download through Tresona who will get your recordings out on web distributors such as CD Baby and Amazon.

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Requesting a Mechanical License

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Requesting a Mechanical License



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 - Synchronization**
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Posting of copyrighted material on the Internet.
-

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Harry Fox SongFile – for imprints of 2,500 or fewer

The **statutory mechanical royalty rate** for physical recordings (such as CDs) and permanent digital downloads:

9.10 Cents per copy for songs 5 min or less

or **1.75 Cents per minute** for songs over 5 minutes.

hfa Mechanical Royalty Calculator

Minutes:

Seconds:

of Recordings:

you plan to make and/or distribute.

Calculate

Scenario:

You made an archival recording of your concert containing music under copyright. You decide to distribute this to your members for free or at cost. Are you compliant?

Red face?: Not very. Not ripping anyone off.

Safety in numbers: Probably. At least low risk.

The law: You are in violation.

The compulsory licensing provision says a license is required, even if no money changes hands. You may decide this is a manageable risk.

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Recording choral music – Grey areas

1. “Archive” recordings of concerts.
2. Distribution of concert recordings to **singers vs the public.**
3. **Rehearsal Tracks**

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Tier 4 Web or broadcast rights, synchronization

Synchronization (“synch”) rights are the rights to include a composition in an audio-visual work such as You Tube videos.

Want to post your concerts or individual songs on YouTube?
Typically, the **song publisher grants synch licenses**.

You may include samples of copyrighted music on your website as long as the sound excerpt is 30 seconds or fewer.

GALA Resource Center: Search “Copyright”

[About Gala Choruses](#)[Membership](#)[Events](#)[Resource Center](#)

Copyright & Licensing

Fundamentally, copyright compliance is about honoring the creators of our music and helping them make their living from their music so that they can make more of it for us. Whether your chorus is performing a free community concert or in a ticketed venue, if you are performing copyrighted music you are legally (and morally) responsible to pay the composer and those institutions that support the work of composers.

Here's a concise summary of copyright information by Kristan Burkert- [The Legal Side of Choral Music](#).

Kevin Robison presented this workshop on Copyrights and Wrongs at the 2011 GALA Leadership Conference.

[Copyrights and Wrongs - PDF](#)

▶ [Print Music](#)

▶ [Fees for Performance Rights](#)

▶ [Recording Music](#)

▶ [Permission to Arrange](#)

▶ [Music on the Web](#)

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Questions and Discussion

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TIPS FOR GOING FORWARD

- No response does not imply permission, even if you declare that it does.
- Understand that this is complex for EVERYONE involved.
- Alfred and Hal Leonard have no known contracts with the devil.
- Everyone in this process is a real person, and *no one* wants a red face.
- Have discussions, ask questions, send emails, make phone calls.
- When in doubt, err on the side of caution.
- Plan MONTHS in advance if you are seeking permission for anything.
- Decide who in your organization is responsible for this work.
- Compliance is a choice, not a process.
- At the very least, take your compliance to the next level.

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Questions? Contact

Robin Godfrey, Executive Director

ExecutiveDirector@GalaChoruses.org

Jane Ramseyer Miller, Artistic Director

for question about Festival programming

AD@GalaChoruses.org