

# Copyright and How it Affects You: Why Have a Copyright Law?

By Roger Cichy, Music Educator/Composer



U.S. Copyright is a complex set of laws that has direct implications on music educators, since most of the printed music and music books used in our schools are copy protected. To help understand U.S. Copyright and how it applies to us, I will be supplying several articles for the RIMER rather than one, long, overwhelming article. It is the hope of the RIMEA Executive Board that a better understanding and awareness of U.S. Copyright will lead to a greater consciousness and compliance to its laws.

Imagine for a moment that copyright laws don't exist. You write, let's say, a novel. Even though you spend many hours, days, weeks, and even months creating your novel, unless you keep it under lock and key, anyone who could get his or her hands on a copy could enjoy your work totally free of charge. You would not be compensated for your work. If someone chose, he or she could modify your work and call it their own work. In perhaps a rare but possible case, Hollywood could come along and turn your novel into a movie. Don't count on any income, or even a request for permission for its use. No copyright law, no compensation for all your hard work. Fair?...of course not!

The U.S. Copyright law was based on a simple principle: if you create something, it is yours to control and benefit from its use. "Copyright" literally means the right to copy. With copyright, a writer is guaranteed protection against unlimited free use of his or her work by others. There is incentive for an artist to create because there is potential for income to be realized. As the United States Constitution states, copyright laws are designed "to promote the progress of science and the useful arts, by securing for limited times to authors...the exclusive right to their respective writings." Those countries having strong copyright laws benefit by having art that provides enrichment to their people.

With the copyright law, composers have certain exclusive rights to any work that they create. As with any artistic work, it represents a form of property of which the artist can freely transfer the copyright. In other words, an artist can sell, license, or assign his or her copyrighted work. For any composer to turn an original creation into income, it is usually desirable and necessary for the works to be published. This provides a means of dissemination of the creative work to the public. Within a standard publishing contract between a composer and the publisher is found the main clause explaining the responsibility of the publisher; primarily to exploit the work of the composer. Therefore, the copyright of the work is assigned to a publisher. As music educators, we usually see printed sheet music which is the principal way the publisher

"exploits" the work of the composer. There are many other ways in which music is exploited by publishers, but for right now, we'll save some of the other ones that affect the music education community for a later time.

The composer's work is done; he or she was responsible for creating the work. What responsibilities does the publisher have? The publisher is really the composer's business agent responsible for printing the work, distributing the work to music dealers, monitoring and collecting money for the publication, and paying the composer a share of the proceeds as specified in the publishing contract. The printing of the music alone is a monumental and multifaceted task. The music is first engraved, and then sent to the composer for a thorough proofing. Once the proofs are returned to the publisher, all corrections are made and plates are cut for printing. After all pages have rolled off the press, the music is collated, assembled, and prepared for shipping. The overall process can take anywhere from a week to nearly a year depending on the length, scope and medium of the composition.

But, an amazing thing can happen. With a photocopy machine, one can take a printed piece of music (illegally of course) and in a matter of minutes, reproduce a copy of the work. As a composer, it blows my mind when I finish a major work, which might have taken me months to create and orchestrate, only to have a reproduction of the score produced on a copy machine in a time span of about five minutes. (Only this time, the reproduction is legal since I created the work). Technology has allowed us to do amazing things that were not possible when the original copyright laws of this country were created. Now that copy machines are widely available and common in every school, it is so common to "run a few more copies of a piece of music" or "save Johnny the expense of purchasing a solo for the solo and ensemble contest by just making him a copy" or, when the budget is really tight, "just copy everything we need so we can get through the school year. There is just no money for music right now. Maybe next year's budget will be better." There is a big problem here! This is stealing!

Printed music is a physical embodiment of a composer's creation. It is black ink on white paper. Once a composer's work is available to the public, it is all too easy to copy, distribute, perform and even create derivative works of the piece. Copyright laws exist to deter these actions. Penalties for infringement range from \$500 to \$20,000 for statutory damages and up to \$100,000 per copyright infringement if the court finds willfulness of the act. Every illegally copied piece of music means a lost sale and lost income to everyone involved in putting the piece of music in print.

There are also moral issues involved with copyright infringements. Allow me to close this article with a scenario that most of us can relate to – All-State Auditions. Think about this: It would be highly inappropriate for your students to walk into a music store and help themselves to instrument supplies such as reeds, valve oil, cork grease, etc. for their audition without paying. It would be unacceptable for your students auditioning for All-State not to pay the auditioning fee required by RIMEA. It would be deplorable for any of your students taking private lessons in preparation for All-State auditions to cheat his or her teacher out of private lesson fees.

More so, it is a flat-out copyright infringement when your students use a photocopy of the audition piece whether it is to prepare or audition for All-State. Allowing a student to learn any piece from a photocopy but then providing him or her with the original music for the audition or adjudication is still in violation of copyright. Further, the student will not have the benefit of any markings that have been added to the photocopy if this cannot be used in the audition therefore putting him or her at a disadvantage.

In the next issue, I will provide details regarding "Fair Use" copying and what copying is permissible under copyright laws. In addition, I will continue exploring the ethics of copyright law compliance. 🎵

*Roger Cichy is a freelance composer and arranger with over 300 compositions and arrangements to his name, writing for high school, university and professional bands, professional orchestras, and the commercial music industry. He holds Bachelor of Music and Master of Arts in Music Education degrees from The Ohio State University. He has directed concert bands and marching bands at the elementary, high school and college levels, serving at both the University of Rhode Island and Iowa State University. Roger lives in Scituate with his wife, Patricia.*

