

“Do We Have To?” ~ Copyright Basics

by Pat MacPherson

We periodically get questions at the CDSS office about copyright and permissions. It can be a daunting subject, though once you get the basic concepts under your belt it won't remain that way.

One question we're often asked is whether you need to get permission to use someone else's work when publishing a dance or tune book or when recording a CD. People usually have an uncomfortable feeling that something should be done, but they don't know exactly what or how. (By the way, what follows is general information about copyright and is not legal advice.)

The Basics

- Copyright is a form of legal protection for the authors of original literary, dramatic, musical, artistic and other intellectual works.
- Both published and unpublished works are protected.
- Copyright protection exists from the time the work is created (that's the copyright date) and is in a “fixed form,” i.e., the first written copy or recording of a new song, dance or tune.
- Copyright is immediately the property of the author and that person then has the sole right to reproduce and distribute the work AND may authorize others to do the same.¹
- Registering a copyright with the Library of Congress provides additional legal protection, but is not necessary to establish copyright.

So, the answer is “Yes.” In order to use someone else's work in your publishing project, you must ask their permission and give them credit.

Guidelines for Obtaining Permission

- First, determine the correct name, author/composer or copyright holder, date and other relevant information for everything you use, including artwork and pictures. This will also give you information about what is and isn't in the public domain. And it will enable you to pass on the correct information when people collect from you.
- Obtain permission in writing from the creator of the material or the copyright holder for one-time use of their material in your publication project
- The creator of the material, and the copyright holder if this is a different person, and the date of copyright should be cited in your publication. Clearly state that permission was granted for use of the material.

Public Domain

If the copyright for a tune, dance or song has expired, it is said to be in the public domain, and you don't need to seek permission although material should still be properly credited if possible. In the United States, anything created (whether published or not) before 1923 is in the public domain. Anything created after January 1, 1978 is under copyright.

That's easy enough, but what about those years between 1923 and 1978? If a work was published 1923-1963 with a copyright notice, it has copyright protection for twenty-eight years, with the option of renewal for sixty-seven years, and if not renewed, it will be in the public domain. If it was published 1964-1977 with a copyright notice, it has copyright protection for twenty-eight years with an automatic extension of sixty-seven years for the second term.²

Tunes, dances and songs published in other countries will have different copyright limits.

The Fun Part

In an earlier article on “Tracking Copyright and Composers” (*CDSS News*, issue #137, July/August 1997), Susan Songer included the names and addresses of organizations she contacted

while researching the copyright of tunes for *The Portland Collection*. Those updated addresses are included below. Susan found, and you will too, that determining authorship and tracking down authors/composers for permissions may require some interesting detective work. Don't despair though—talk to local musicians/singers/dance teachers, contact the appropriate copyright offices, use the Internet and contact newsgroups, contact CDSS. And if you truly can't find what you need, you will have made a good faith effort, and when you do publish, include a statement to that effect—it's possible a reader or listener could have the correction information you need for future editions.

In the folk world these matters have sometimes been treated casually although with good will. If it all seems like too much bother, think of it this way: it's also an expression of our respect for creativity in all the arts and is part of our mission to preserve the names and work of those in the past for those coming in the future.

Sources of Information

(from Susan Songer's article, reconfirmed June 2003)*

NEWSGROUPS

rec.music.celtic
rec.music.country.old-time
rec.folk-dancing

WEBSITES

www.ceolas.org/tunes/TuneIndex
www.irishtune.info/finder.htm

ORGANIZATIONS

Augusta Heritage Center
Davis and Elkins College, 100 Campus Drive, Elkins,
WV 26241
304-637-1209 or 800-624-3157
augusta@augusta.heritage
www.augustaheritage.com

Country Dance and Song Society
PO Box 338, Haydenville, MA 01039-0338
413-268-7426
office@cdss.org
www.cdss.org

Centrum (Festival of American Fiddle Tunes)
PO Box 1158, Port Townsend, WA 98368-0958
360-385-3102
info@centrum.org
www.centrum.org

Irish Music Rights Organization (IMRO)
Copyright House
Pembroke Row, Lower Baggot Street
Dublin, Republic of Ireland
011-35-31-661-4844
info@imro.ie
www.imro.ie

Performing Rights Society
(copyrights organization in British Isles)
2933 Berners Street
London W1T 3AB England
011-44-207-580-5544
www.prs.co.uk
writerquery@mcps-prs-alliance.co.uk
publisherquery@mcps-prs-alliance.co.uk

PRS Scotland (copyright in Scotland)
3 Rothesay Place
Edinburgh EH3 7SL
www.prs.co.uk

SOCAN (copyright in Canada)
41 Valleybrook Drive
Toronto, Ontario M3B 2S6 Canada
1-800-797-6226
1-416-445-8700
www.socan.com

- ¹ This information is taken from "Copyright Basics," Circular No. 1 of the U.S. Copyright Office. Circular No. 22, "How to Investigate the Copyright Status of a Work," is also useful. This and other circulars are an excellent source of intelligibly-written information and are available on-line at www.loc.gov/copyright/circs or in print from the Library of Congress, Copyright Office, 101 Independence Avenue SE, Washington, DC 20559-6000.
- ² Lolly Gasaway and Professor Tom Field, Franklin Pierce Law Center, "When Works Pass into the Public Domain," 2001.

* reconfirmed August 2006