



Copyright Primer for Barbershoppers

By Dave Briner

A copyright protected item is intellectual property, owned by someone (person or publisher), and by provisions of U.S. Copyright Law, the owner is entitled to per-copy fees whenever that item is duplicated. First, I'll discuss sheet music.

If purchased from the Barbershop Harmony Society (BHS) Harmony Marketplace, they charge per-copy fees up front for the number of copies the purchaser wants. BHS then forwards per-copy fees to the publisher. It's the buyer's responsibility to duplicate only the number they paid for. Those copies are legal. You may distribute them to the chorus members, but secondary copies of legal copies are illegal. Another acceptable way to legally limit the number of copies is to place the music (usually in PDF format) on a chapter website page that is accessible only to active chorus members. (BHS does not furnish PDF formats, so the webmaster must create this by scanning a hard copy.) Chapter members can then download their personal copy and print it out at home, but they are legally allowed to do this only once. Whether the distribution of the number of legal copies (for which you have paid) is done physically (librarian duplicates and distributes), electronically (downloading from controlled access website), or a combination of both, it is ultimately the responsibility of the chapter members to not make illegal copies. Illegal copies are an infringement of copyright law, and subject to lawsuit. That is why your website needs to have the capability to track the number of downloads of a file, and why chapter members need to be reminded periodically of their responsibility in this regard.

Songs published prior to 1923 have expired copyrights, and have become Public Domain (PD). If someone writes an arrangement of a PD song, he/she owns the copyright to his/her arrangement, and is entitled to per copy fees. Note that he/she doesn't own the song - just his arrangement, and someone else can write another arrangement of the same song and copyright his/her arrangement as well. BHS does not generally get involved in per-copy fees of PD songs - just those songs owned by commercial publishers. If the chapter duplicates arrangements of PD songs, payment of per-copy fees is handled directly between the chapter and the arranger.

Next I'll address audio tracks (usually in mp3 format). These (when they are for sale, such as on iTunes or any other commercial sales outlet on the internet) are subject to per-copy fees, and it is up to the seller to collect them and forward them to the copyright owner. BHS Harmony Marketplace offers learning tracks for sale, which are treated just like commercial audio recordings - i.e., they license their recordings and pay per-copy fees at the point of manufacture. When you buy them from the BHS, your chapter pays for some number of legal copies, and control of their distribution is just like sheet music (physical duplication via tape/CD, or electronic via a controlled-access web page with download tracking).

Barbershop chapters have developed other sources of learning tracks besides purchase from Harmony Marketplace. They can be home recordings of your chapter members or tracks made by other barbershoppers outside your chapter. These latter tracks are typically offered for sale to compensate

their creators for their time and talent, and they are unlicensed. Note that payments for creation of these tracks are not covered by copyright law, and any such payments are nothing more than “professional courtesies.” [The same is true of the so-called “arranger fees” typically paid to arrangers for unpublished charts they created. The arranger does not own the copyright to his arrangement of a copyright protected song - the publisher does. The arranger cannot sell what he doesn’t own, but he can request a courtesy fee.] These learning tracks are generally accepted as being covered by the “fair use” provisions of copyright law, since their distribution is restricted to members of the active chorus and their use is limited to training of the performers. Licensing of these recordings, and payment of per-copy fees, is not required as long as the conditions of “fair use” are followed. Note that the learning tracks purchased from BHS don’t come under the “fair use” provisions, because these products are commercially available for sale to anyone.

About the author: Dave Briner became copyright conscious in the early 70s when the Barbershop Harmony Society urged all arrangers to make their works legal. Since the early 90s, Dave has handled all copyright issues for the Masters of Harmony, keeping the printed music legal and obtaining Mechanical Licenses for all of the chapter’s CDs.