

# The Basics of Music Royalties and Copyrights

This document covers the proper procedures involved with manufacture and distribution of music that is not in the public domain.

## Identify the Copyright Owner - the publisher

**The first step is to identify the owner(s) of the copyright to the song. The publisher.** The easiest way to do this is to **search the song writer/publisher databases**, here:

- BMI ([bmi.com](http://bmi.com))
- ASCAP ([ascap.com](http://ascap.com))
- SESAC ([sesac.com](http://sesac.com))
- Harry Fox ([songfile.com](http://songfile.com))
- U.S. Copyright Office ([copyright.gov](http://copyright.gov))

Keep in mind that **the owner of these rights is typically a publisher**, and that the owner of the rights in the song is not the same as the owner of the rights to any particular recording of the song. In other words, Record Labels are almost never the owners of the copyright to the musical composition - they typically own only sound recordings. **You should be looking for the name of a publisher (or in some cases an individual)**. Be careful to **identify the exact song you want, as there are many songs with the same names**. If you cannot find the owner through these websites, search the records of the Copyright Office online.

**If you cannot find the copyright holder(s) after a thorough search**, you can send the letter to the Copyright Office, along with a small filing fee, currently \$12.00. See the Copyright Office website for the proper address and current filing fees if you are going to be sending the letter of intent to them.

Instructions on how to do that are on "Circular 73" from the U.S. Copyright Office, on a PDF file, here: [copyright.gov/circs/circ73.pdf](http://copyright.gov/circs/circ73.pdf). WE STRONGLY RECOMMEND DOWNLOADING AND READING THIS FILE, because it carries the essence of this entire article.

## Send a Letter of Intent - EXACTLY like this:

You must send **one letter for each song** for which you seek a compulsory license **30 days** before you begin distribution of your downloads. **The letter must be sent by registered or certified mail and contain the following:**

1. a clear subject line/title that says "Notice of Intention to Obtain a Compulsory License for Making and Distributing Phonorecords"
2. **your full legal name**
3. all fictitious/assumed names (**stage name, band name**) used

4. the names of each individual owning a 25% interest or more in the distribution of the song (**band members**, if you split your sales income)
5. your **fiscal year** (usually January 1st - December 31st)
6. your full **physical address** - P.O. boxes are unacceptable, unless that is the only option for addresses in your geographic region
7. the **title of the song**
8. **name(s) of the author(s)** of that song
9. the type of configuration expecting to be made (a music file distributed over the Internet is called a "**Digital Phonorecord Delivery**" (DPD))
10. the **expected first date of distribution**
11. the **name of the performer/band doing the cover**
12. **your signature.**

If there is more than one publisher listed, sending a letter to one of them is sufficient for the compulsory mechanical license; however, if one or more of the copyright holders is not from the United States, it is best to send the notice to all copyright holders.

## Send Royalty Statements and Pay Royalties

Once you begin distributing the song over the Internet or via CD (media), you must **send monthly statements of royalties on or before the 20<sup>th</sup> of each month, and pay the royalties. The monthly statement must be sent by registered or certified mail and include:**

1. a clear title that says "**Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords**"
2. the **period (month and year) covered by the statement**
3. **your full legal name**
4. all fictitious/assumed names (**stage name, band name**) used
5. the names of each individual owning a 25% interest or more in the distribution of the song (**band members**, if you split your sales income)
6. your full **physical address** - P.O. boxes are unacceptable, unless that is the only option for addresses in your geographic region
7. the **title of the song**
8. **name(s) of the author(s)** of that song
9. the **name of the performer/band doing the cover**
10. the **playing time (length) of your recording of the song** (minutes:seconds)
11. the number of DPDs made, i.e. **how many times your recording was downloaded**
12. the number of DPDs that were **never delivered due to a failed transmission**
13. the number of DPDs that were **retransmitted in order to complete/replace an incomplete/failed delivery**
14. the **total royalty payable** (number of total DPDs, not counting ones never delivered multiplied by the statutory royalty rate (see below))
15. the following statement: "**I certify that I have examined this Monthly Statement of Account and that all statements of fact contained herein are**

**true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith"**

16. **your signature**

**You must also send an Annual Statement of Account at the end of each calendar year**, which is virtually identical in content to the Monthly Statements, but **must be certified by a licensed Certified Public Accountant (CPA)**.

## **Statutory Royalty Rates**

The current (2004) statutory rate for royalties is **8.5¢ for every copy sold** if the playing time for the song is under five minutes. If the playing time for the song is **longer than five minutes, the rate is 1.65¢ per minute, rounding up to the next minute**.

- under 5 minutes = 8.5¢ per copy
- 5 to 6 minutes = 9.9¢ per copy (6 minutes x 1.65¢)
- 6 to 7 minutes = 11.55¢ per copy (7 minutes x 1.65¢)
- 7 to 8 minutes = 13.2¢ per copy (8 minutes x 1.65¢)
- etc.

On January 1, 2006, the rates go up to 9¢ per song or 1.75¢ per minute.  
(As described above.)

The Copyright Office can always keep the most up to date information concerning statutory royalty rates at this link: <http://www.copyright.gov/carp/m200a.html>

## **IMPORTANT Notes:**

**The publisher may tell you to that they don't deal with compulsories, and that you should contact the Harry Fox Agency. However**, it may be easier for some artists to obtain compulsory licenses directly from the publisher.

Remember the **law is on your side. You are entitled to a compulsory license by law. You have permission** - (a compulsory license) - as soon as you send the notice, described above, to the proper publisher.

**As long as your notice complies with Copyright Section 115**, (described above), **the publisher need do nothing other than receive the royalty payments. You don't even need to wait for their reply.**

## **Other Notes:**

You may be able to negotiate a better deal for yourself, either with lower royalty rates or less frequent statements of account. If terms are negotiated which deviate from the standard Section 115 then a mechanical license will be issued by the publisher or HFA.

If you wish to distribute physical copies (e.g., CDs) of a cover song, you must obtain a similar compulsory license, available for most popular songs through the Harry Fox Agency at [harryfox.com](http://harryfox.com). If you plan on distributing between 500 and 2500 physical copies, you can obtain a compulsory license through the Harry Fox Agency online at [songfile.com](http://songfile.com).

For more information on compulsory licenses for all forms of distribution, please refer to the Copyright Office's web site, at [copyright.gov](http://copyright.gov), and contact your attorney. Helpful publications available through the Copyright Office include Circular 73 (Compulsory License for Making and Distributing Phonographs), Circular 75 (The Licensing Division of the Copyright Office), and M-200 (Checklists under Section 115 of Title 17).

**If you have been distributing a cover song without a compulsory license or an agreement with the copyright owner, you are ineligible to obtain a compulsory license for that recording (!), and you may be subject to civil and/or criminal penalties for copyright infringement.**

Be careful to follow the steps **exactly** as described above, in order to be legal.

## **Download and print/save these files:**

- [How to Investigate the Copyright Status of a Work](#)
- [Compulsory License For Making and Distributing Phonorecords](#)
- [Notice of intention to obtain a compulsory license](#)
- [Royalties and statements of account under compulsory license](#)
- [Checklists of Required Information](#)
- [Mechanical Copyright Royalty Rates](#)

These and more available at the U.S. Copyright Office website: [copyright.gov](http://copyright.gov)