

HOW TO USE
MEMORABLE LYRICS

WITHOUT PAYING A FORTUNE OR A LAWYER

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How to Use Memorable Lyrics Without Paying a Fortune or a Lawyer

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Music is Evocative

Whenever I speak at a conference, I ask the audience who is using song lyrics in their writing. Without fail, a few hands go up, including my own. After all, lyrics are a quick way to communicate setting and mood. A Frank Sinatra ballad evokes a World War II romance while a few Grateful Dead ramblings transport readers to a smoky love-in. When I warn the audience that using lyrics to create setting may be copyright infringement, an audible groan fills the room.

Is this fair? Can't we use lyrics we know by heart? Don't they become generic like trademarks? Afraid not.

Lyrics, like images and text, are intellectual property. If you use someone's property without permission, whether it's a car, a bicycle, or the words to a popular tune, you are violating their property right. You could get a lawyer letter demanding a hefty sum. That letter could also demand that you "cease and desist" using the lyrics. Yes, you may have to shred every copy of your book even though the infringing words are only 25 of its 85,000 words.

Think about it. You are using lyrics because they are evocative and powerful. They convey a certain meaning and magic in a few words. That's what art is all about. Doesn't someone who captures that magic deserve recognition and a little compensation?

But there's good news. The cost of getting permission to use lyrics in print books and ebook is affordable, typically between \$10 and \$50. Now those sums won't get you permission to use the words from *Jumpin' Jack Flash* or *Eleanor Rigby*, but they are likely to cover most Frank Sinatra ballads.

This e-book outlines when and how to obtain permission to use lyrics in your writings, including links for tracking down a rights holder and a form letter for asking permission. Read on.

Obtaining Permission to Use Lyrics

Let's say you have a particular song in mind and are trying to figure out how to get permission to use it. Basically, it is a four-step process:

- **Determine if you need permission.**
- **Identify the copyright owner.**
- **Describe the permission you need.**
- **Get permission in writing.**

First, a little background and vocabulary.

Copyright attaches as soon as an original creation is fixed or recorded into a tangible medium, such as a note pad or an audio recording. As soon as a songwriter puts the lyrics in writing, the songwriter owns a copyright in those lyrics. If the songwriter were to record the song, then she would have two copyrights, one in the printed lyrics and musical notations (a Composition Copyright) and the other in her audio recording of that song (a Recording Copyright).

The owner of a copyright has the exclusive right to control the performance, recording, reproduction, marketing, sale, licensing, and development of derivative works based upon the copyrighted work, with some exceptions. For more about copyrights, see [11 Things Every Writer Should Know About Copyright](#).

License: License means **permission to use** and does not mean a transfer of ownership. A license is like renting a house (or more accurately a portion of the house) instead of buying it; it is restricted by time and scope. A license may be exclusive or non-exclusive and is often limited to a particular use (editorial, noncommercial, educational), format (print, e-book, web), duration, geography, almost anything. Most likely you will be requesting a non-exclusive license to use lyrics for a particular purpose.

There are various types of music licenses, depending on whether you are using lyrics in print alone, whether you are recording the song yourself, and whether you are using someone else's recording of the song for your book trailer, audio book or a public reading. For purposes of this ebook, we are focusing only on the use of lyrics in a print book, magazine or periodical, in an ebook and/or on a website. No sound involved.

Music Publisher: Most songwriters do not hold onto the rights to their songs, other than the right to receive royalties. They sell and assign their copyrights to a music company or to a music publisher. The music publisher owns or controls the copyright and 99% of the time, you will contact and pay the music publisher for permission to use the lyrics, not the songwriter.

How to Determine If You Need Permission

Anyone who searches for lyrics on the internet is likely to think they are free to use. Dozens of sites post song lyrics, often without copyright notices and attribution, and often in violation of someone's copyright.

How does this happen? Why aren't these sites taken down? Most likely, music publishers have decided it's not cost effective to police these sites. Stop one and ten others take its place. And many of these sites are based in countries where enforcement is difficult.

Not so with an author or publisher. You are in one place and easy to find. For that reason, not to mention being fair to a fellow artist, it's far better to go through the steps of getting permission to use the lyrics.

You should assume you need permission unless the lyrics are in the **public domain** or your use qualifies as **fair use**. Let's take a look at each of these exceptions.

Public Domain

Any work in the public domain is free to use without permission or compensation. You should, however, always give credit to the original creator out of respect and to avoid plagiarism. Plagiarism is not a legal claim; it's more of a moral or professional standard.

The most common reason a copyrighted work falls into the public domain is the copyright has expired.

Any song first published or recorded in the United States before January 1, 1923 is in the public domain. This includes many rag time and early blues songs. Examples:

- *Take Me Out To the Ball Game* by Ed Meeker
- *Swing Low Sweet Chariot*
- *Jelly Roll Blues* by Jelly Roll Martin

Keep in mind, that only the sheet music and lyrics are in the public domain. Any recording of these songs after December 31, 1922 as well as any lyrics or arrangements added after that date might still be protected by copyright.

For music first published or recorded in the United States between 1923 and 1977, the copyright expiration depends on whether a copyright notice was properly placed, whether the copyright was registered, and whether the registration was renewed. You could track down, or hire someone to track down, whether the copyright was lost, but it may be simpler to assume you need permission.

We are covering only the U.S. in this ebook. If the lyrics you want to use were first published in another country, the laws of that other country will apply.

Where to find public domain song lyrics.

A number of websites list, collect and sometimes sell reprints of public domain songs. Some of these sites also include works that may still be subject to copyright, so be sure to check the copyright status of any work you intend to use. For U.S. works, only those first published or recorded before 1923 are within the public domain. Assume anything first published or recorded in 1923 or later is still protected by copyright.

Take a look at each site's policies on copyright and reproduction before you download. Some require that you give them credit, and others request a reproduction fee.

[The Public Domain Information Project](#) provides a wealth of information about public domain music. They list thousands of public domain music titles, plus you can buy reprints for a small price. They also offer some "stock" music for licensing, again at reasonable prices.

[The Lester S. Levy Sheet Music Collection](#) at Johns Hopkins University's Eisenhower Library has more than 29,000 pieces of American popular music. The collection spans 1780 to 1980 and documents nineteenth-century America through popular music, especially music spawned by military conflicts from the War of 1812 through World War I.

[Historic American Sheet Music Project \(1850-1920\)](#) . The David M. Rubenstein Rare Book & Manuscript Library at Duke University provides access to digital images of 3042 pieces published in the United States between 1850 and 1920. You may use their **images** for non-commercial purposes and must provide a citation. In other words, they claim a copyright in their image of the lyrics, not the lyrics themselves. If you want to use their **images** for commercial purposes, contact them for permission. The lyrics are still in the public domain.

[Music for the Nation: American Sheet Music, 1870-1885](#), American Memories, The Library of Congress. The Library of Congress is an incredible resource for public domain lyrics, recordings, images and text.

[African American Sheet Music](#) (1850-1920), Brown University has one of the largest collections of sheet music in the United States, primarily vocal music of American imprints, from the 18th century to the present day, with the largest concentration of titles in the period 1840-1950. One of the most important categories consists of music by and relating to African Americans.

[19th-Century American Sheet Music Digitization](#), The Nineteenth Century American Sheet Music Collection at the UNC-Chapel Hill Music Library includes approximately 3,500 popular vocal and instrumental titles from the 1830s to the end of the 19th century.

[19th-Century California Sheet Music](#), University of California, Berkeley, has a virtual library of some 2,700 pieces of sheet music published in California between 1852 and 1900.

[Loeb Music Library](#) at Harvard University has a music index with over 30,000 titles from 1560 to 1830. The scores and libretti in this Virtual Collection include first and early editions and manuscript copies of music from the eighteenth and early nineteenth centuries by J.S. Bach and Bach family members, Mozart, Schubert and other composers, as well as multiple versions of nineteenth century opera scores, seminal works of musical modernism, and music of the Second Viennese School.

[The International Music Score Library Project/Petrucci Music Library](#) has a compilation of nearly 190,000 musical scores.

Fair Use

If the lyrics you wish to quote are not in the public domain, you may be able to use them if your use is considered Fair Use.

Fair use is copying of copyrighted material for a limited purpose, such as education, commentary or criticism, or a “transformative” purpose such as parody.

Four factors are taken into account in determining whether the unauthorized use of copyrighted material is fair use.

1. The purpose and character of the use. Is it for commentary, criticism or educational purposes? Is it commercial? Is the new work a transformative parody or use, meaning it has been altered significantly to add a new meaning or reach a new audience?

2. The nature of the original work. Using unpublished works is less likely to be fair use because of factor four—the potential effect on the value of the original work.

3. The amount and substantiality of the portion used in relation to the original work as a whole. The more you use, the less likely your use will be considered fair use. There is no safe number of words you may use without drawing unwanted attention. So much depends on the aggressiveness of the owner of the copyright in the original work.

4. The effect of the use upon the potential market for, or value of, the

copyrighted work. If you are reducing the value of the original work, your use is unlikely to be fair use.

For example, if you use lyrics from Bob Dylan and Emmene to compare their treatment of women, that is probably fair use. But to use the same lyrics to evoke a time or place is not fair use and could be considered infringement.



The line between fair use and infringement is murky. Much depends on the facts of the case. Giving credit does not make a difference—you could be infringing even if you are not plagiarizing.

Unless you are reasonably confident your use is fair use, don't rely on it. Fair use is a defense. Legally, that means you have the burden of proving fair use. Even if you are well within safe lines, the copyright owner might sue. Think of the attorneys' fees and the time involved. While we admire those who take on David-and-Goliath battles, we'd rather spend our time and energy writing.

How to Find Out Who Owns the Lyrics?

Suppose you want to use the lyrics to *Will You Still Love Me Tomorrow* written by Carole King and Gerald Goffin. You might be tempted to contact these songwriters directly through Carole King's website. But even these super-successful songwriters do not manage the licensing of their songs. A music publisher manages the licensing of the lyrics and the collection and distribution of royalties.

How do you know which music publishing company?

If you have a copy of the sheet music of the song, there may be a copyright notice with the name of the publisher. You can then locate the website of the publisher online. Chances are they will have a form to fill out to request permission.

Otherwise, the best place to start your search is with two largest music publishers:

- [Hal Leonard Corporation](#) handles songs by thousands of artists including the BeeGees, Irving Berlin, Johnny Cash, Henry Mancini, Red Hot Chili Peppers, and Walt Disney.
- [Alfred Music Publishing](#) represents hundreds of music publishers and songwriters, such as Bruce Springsteen, United Artists, MGM and various movie studios.

The search capabilities on these sites are far from perfect, and you may not be able to find the song you have in mind. It costs nothing to email these sites or fill in their online forms asking for permission. If they don't handle the song, they will let you know.

To fill out these online forms, you'll need to give them the following information: book title, publisher, publication date, the excerpt and/or complete lyrics as they are to appear in your publication, the territory of distribution, suggested retail price and number of copies to be printed. You'll have to make a judgment call here. If you ask for permission to print 100,000 copies then the license fee will be higher than if you request permission to print 1000 copies. Ask for a reasonable amount. Try to find the right balance between wild dreams and commercial reality.

Although they say it may take four to six weeks to receive a response, We usually hear back from them within two weeks.

If those sites do not work, then you can find the publisher by searching the data bases of ASCAP, BMI, SESAC and SOCAN. These are performing rights societies which manage the licensing of recorded music on behalf of the recording artists, but they also provide the contact information (and often a link) to the music publisher from whom you should request the right to reprint lyrics.

The trick is, you need to search ALL FOUR sites, because performer artists may be registered with one company and not the others. And many songs have various co-writers and multiple music publishing companies, and you need permission from all the publishing companies.

Here are the current links for searching these databases. Generally, you can search by performer, title, or publisher.

- [ASCAP](#)
- [BMI](#)
- [SESAC](#)
- And in Canada: [SOCAN](#)

Let's walk through a couple searches.

A friend of mine wants to use lyrics performed by Frank Sinatra in her novel. In particular, she asked me how to get permission to use a few lines on *I Get A Kick Out Of You*.

We searched the title on both BMI and SESAC and found nothing. On ASCAP, we searched Frank Sinatra, found several pages of his recordings and clicked on *I Get A Kick Out Of You*. The next page showed the writer (Cole Porter) and the publisher, Warner Brothers Music. We clicked on Warner Bros and a drop down menu gave us the address and email contact information. Now we know who to contact to get permission to use the lyrics.

Let's return to *Will You Still Love Me Tomorrow* written by Carole King and Gerald Goffin. A search of ASCAP and SESAC turned up nothing. On BMI and on SOCAN we found the publisher, Screen Gems-EMI. We clicked on the publisher's name and got the contact information.

Don't be surprised that many of these publishers send you to Hal Leonard or Alfred Music to handle your request. Those companies handle print rights for thousands of publishers, which is why we recommend starting with those databases.

What Sort of Rights Do You Need?

Typically, a copyright owner will own a bundle of rights to the lyrics, including the right to reproduce, distribute and modify the work. If you don't need all of these rights (and it's likely you don't), then you need to determine which rights you will need. Think about how you intend to use the work, and go from there. You don't want to pay for more rights than what you'll actually be using.

How long do you intend to use the lyrics?

Just like drivers' licenses, permissions licenses and agreements have expiration dates. In the copyright world, the amount of time for which your license is valid is called its **term of use**. Terms of use can range from one-time uses (e.g. for an issue of a magazine) to perpetual agreements (meaning that they last as long as the copyright owner's protection lasts).

In which geographic regions do you intend to reproduce the lyrics?

The **territory** refers to the geographic region in which you are allowed to use the lyrics. For example, you may only be able to reproduce the lyrics in a work published in the United States due to territorial restrictions.

How many copies of the lyrics will be reproduced and in what formats?

Each of these details could affect your licensing fees and should be specified. Will your book just be a print book, or will it be available as an e-book as well? What about yet-to-be-developed technology? And how many copies will you print? Try to get a good sense of the answers to each of these questions before asking permission.

How much do licenses for lyrics usually cost?

Licensing fees for reprinting lyrics are not fixed, so music publishers may charge whatever the market dictates. If reproducing lyrics in your book, expect to pay \$25 or more. Average licensing fees for reprinting lyrics in books are usually around \$50. Fees for website use can be more variable depending on the size of the audience (measured by website traffic). These fees can range from \$50 to \$1,000.

If you are using lyrics for an educational publication, expect the music publisher to seek a royalty of 10-15% of the wholesale price. If you plan to use only a couple of lines of lyrics, it's possible the publisher will allow you to do so without charging a fee.

How do I go about getting permission?

Most music publishers will provide you with a short agreement letter for the reproduction of lyrics. Alternatively, others might give you an oral agreement on the

telephone and follow up with a written document confirming the agreement. Either way, make sure you get an agreement in writing!

What if I can't find the publishing company?

If you can't secure permissions for lyrics, it's best to find another song and start over.

Also keep in mind that you may use the title of the song and the name of the singer and songwriter. Titles and names are not protected by copyright. You should not use a title or these names as part of your book title, since that opens up possible trademark claims, but you may mention them in passing in your work.

And of course, you could always write your own lyrics.

Below is a sample permissions letter for reprinting lyrics:

SAMPLE PERMISSION REQUEST LETTER

The following is a sample only. The tone should be business-like with a touch of personality and creativity. You want the rights holder to buy into your vision and enthusiasm. But make sure you cover the business basics as well as your dreams.

Dear _____ [the music publisher or other rights holder]:

I am writing to ask permission to reprint _____ [identify actual lyrics, song and songwriter(s)] on a non-exclusive basis in _____ [describe intended use, such as within text of book, on a website and/or blog post, etc.].

I believe that you are the holder or administrator/publisher of the copyright in these lyrics. If you are not the current copyright holder or administrator/publisher, I would greatly appreciate any help you can provide to help me locate the current rights holder or administrator/publisher.

[Describe your project, such as a traditionally published book, self-published book, a memoir, etc. If educational, explain how. Show your passion for your project.]

My first run printing will be _____ copies. /OR/ I will be distributing the print book through a print-on-demand provider. I request permission to print up to _____ books [make sure this is a number beyond your wildest dreams]. I will also be distributing an e-book. The anticipated price of book will be \$_____, and the price of the e-book will be _____, although I may discount those prices.

I am distributing the book in English, [mention any other languages] in the world-wide market.

I will also use the lyrics on my website and blog. [Describe current traffic levels.] I do/do not post third party advertising on my website.

I would use the lyrics starting on _____ [date] with no known end date.

I would be happy to provide you copies for approval and upon distribution.

Please let me know if you may grant the permissions outlined above as well as the license fees involved.

Thank you for your attention to my request.

Sincerely,

[Your name, contact info, website, social media links, and anything else that demonstrates who you are and your vision.]

About the Authors

Helen Sedwick is a California attorney with thirty years of experience representing businesses and entrepreneurs as diverse as wineries, graphic designers, green toy makers, software engineers, restaurateurs, and writers. Her recent release [Self-Publisher's Legal Handbook](#) received a **five-star review from Foreword Reviews**; *Self-Publisher's Legal Handbook is likely to become one of the most valuable resources a self-publisher can own...Well-written and authoritative yet unhampered by legalese...Outstanding.*

From Self-Publishing Review: *the Handbook should be on every author's shelf... Sedwick simplifies the scary and presents ways to avoid ending up in a costly legal battle. Her goal is to help you avoid wasting money and time on things that could have been avoided in the first place...Don't hesitate; get your copy now.*

Also check out Helen's ebook, [How to use Eye-Catching Lyrics Without Paying a Fortune of a Lawyer](#).

Helen is also a self-published author. Her historical novel [Coyote Winds](#) has earned five-star reviews from ForeWord Reviews and Compulsion Reads, is an IndieBRAG Medallion Honoree, and won First Prize for historical fiction from the Purple Dragonfly Book Awards in 2013.

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Jessica M. Brown loves words and ideas. She has a BA in American Studies and a Master's in Urban and Architectural History, both from University of California Berkeley. Currently a consultant for universities, libraries, and other academic institutions, she focuses on the transformation of scholarship and teaching in the digital environment. In her free time, she likes to lift weights, read novels, and explore New York by bike and foot.