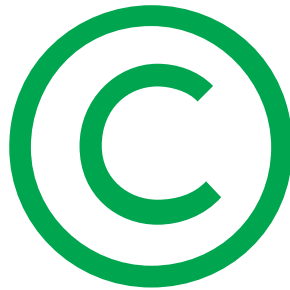


Using Music Under Copyright for Musical Dramas and Dance

A Concise Guide for
Programmers, Directors and Choreographers



Boosey & Hawkes, Inc./Hendon Music, Inc.
35 East 21st Street, New York, NY 10010
Main Tel: 212/358-5300
Promotion tel: 212/358-5362
Promotion fax: 212/358-5306
Licensing tel: 212/358-5351
Licensing fax: 212/358-5305

www.boosey.com

Thank you for your interest in B&H repertoire

Our expert promotion and licensing staff will be pleased to assist you in selecting and licensing B&H-licensed repertoire for any production. There are many misconceptions about copyright-protected works and how they may be licensed, whether one wishes to stage a production of a copyright-protected opera, like John Adams' *Nixon In China*, or desires to choreograph a new dance to compositions by Rachmaninoff, Stravinsky or Reich. Some programmers do not realize that certain works are still under copyright. Others think that licensing copyright-protected works is too difficult, time-consuming or expensive. This pamphlet, in FAQ format, is designed to provide a basic framework for navigating the process and to provide some guidance to make the process easier for you. It is not intended to provide legal advice or to answer all questions you may have with respect to any particular work or usage.

Is the work still under copyright?

This is a complicated question and there is no comprehensive answer to cover every situation. However, here are some basic rules. The current United States Copyright Law took effect on January 1, 1978 and has been amended from time to time. Generally, works that were registered in the Copyright Office or published prior to 1978 will be under copyright in the United States for a term of 95 years. For works that were created on or after January 1, 1978, the duration of United States copyright protection is the life of the author(s) of the work, plus 70 years. Particularly for older works, various treaties and statutes may affect its copyright status. The best way to know if a work is protected is to contact us. However, a safe assumption is that if the work, or the particular arrangement of the work, was created in the 20th century, it is likely under copyright. If you do not know who publishes the work in question, please check the ASCAP and BMI repertoire databases at www.ascap.com and www.bmi.com. However, as explained below, these organizations will not be able to license works for dramatic and choreographic uses. It is also important to note that copyright laws differ among countries. Music that is in the public domain in one country may still be under copyright in others.

Why do I need permission to use music under copyright?

The copyright laws are authorized under the United States Constitution (Article I, section 8, clause 8 for footnote fanatics). The purpose is to provide the creators of artistic works, such as musical compositions, an incentive to create these works and enrich American knowledge and culture. The incentive is a financial one. If a composer were not entitled to payment for the use of her works, she would probably not have much incentive, or time, to write music. Music publishers are in the business of promoting composers' works for use in a variety of ways, including use in live performances, in recordings and in films, in order to give the works the greatest exposure and maximize the income for the composer. The Copyright Law provides that the copyright owner of a work has the exclusive right to authorize various uses of the work, including the public performance of the work. Permission, in the form of a license and license fee, is how a composer, typically through her publisher, authorizes uses of her work and derives income.

Doesn't my ASCAP or BMI license cover this usage?

When licensing dramatic musical works such as operas, or for choreography, the rights involved are known as "grand performing rights" or simply "grand rights." ASCAP and BMI (and SESAC and SOCAN, for that matter) license only "small" performing rights. There is no clear-cut definition or legal test as to when a particular usage is a grand right or small right usage. A good rule of thumb, however, is that if you are seeking to perform a dramatic musical work, such as an opera or a Broadway musical, or to perform choreography to a work, that performance will constitute a grand rights usage. Other uses are when individual songs are used as part of the performance of a straight (i.e., non-musical) play. Small rights uses include live performances of non-staged works, such as performed at concert halls and arenas and broadcasts of recorded music. To determine whether a particular usage is covered under your ASCAP or BMI license, please contact your representative at those companies or contact B&H's Business Affairs department.

When should I contact you about a possible grand rights usage?

You should contact the publisher of a work that you wish to license, either for a musical drama or ballet, as soon as you think you may use the work. You will need to know if the work is available (there are often exclusivity or other restrictions attached to works under copyright, particularly recently premiered ones). Also, any choreographic use or any use involving any changes to the libretto or orchestration will likely require the approval of the composer or the estate (if the composer is deceased). Sometimes, there will be restrictions on using excerpts of a work or including a work in a medley of other compositions. In addition, it is better to know sooner rather than later whether the license fee is affordable. License fees vary from publisher to publisher and many factors affect the price. You may be pleasantly surprised at how reasonable the fee is and the B&H team will do our best to work with you. Please contact B&H's Promotion or Licensing departments as soon as possible regarding any work in our repertoire you may be considering.

What if I want to distribute videos of the performance?

A grand right performing license covers only the live performance of the work. If you wish to distribute videos (VHS or DVD or downloads) of your performance, whether for sale or free of charge, you will need what is known in the industry as a "synchronization" license and our licensing staff will be happy to assist you. There will normally be a separate license and fee for this usage. In addition, if you are using recorded music (e.g., making a video of a dance performance to recorded music), you will need to get a "master use" license from the record label that owns the recording *in addition to* the synchronization license from the publisher of the underlying work embodied in the recording.

What if I want to broadcast my performances?

Again, the standard grand right performing license covers only the live performance of the work. If the broadcast is of a live performance, please let our Licensing department know as soon as possible and we will advise you of the additional fee involved. If it is to be a broadcast of a pre-recorded performance, there will be a need for both synchronization and broadcast licenses. Although this may sound complicated, we can make the process very easy for you.

What if I want to commission a new work?

Please contact our Promotion Department if you are considering commissioning a new dramatic or choreographic work. We will be delighted to assist you in selecting a composer whose style is suited to your artistic goals and to provide guidance as to how the process works and what fees are involved.

How do I license dramatic works from B&H?

Including a contemporary opera and other dramatic musical works can add balance, flair and excitement to your season. We have simplified the licensing process by creating a questionnaire (see attached), which covers all the information we will need in order for us to issue a quote. Please feel free to copy this questionnaire and use it whenever you wish to license one of our works.

How do I license music for dance from B&H?

The creation of a new dance using contemporary music can be a rewarding experience. Fresh sounds are stimulating for choreographers, dancers and audiences alike. Again, we have created a questionnaire (see attached) specifically tailored for choreographic works. Please feel free to copy this questionnaire and use it whenever you wish to license one of our works.

We are your programming resource for contemporary music

Finding the right contemporary music is essential and we are eager to help you in your search. Our catalog covers a comprehensive range of musical styles, both classical and jazz, from traditional to cutting edge. Please contact our Promotion Department for personalized assistance in selecting music or for information on commissioning one of our composers.

Coda

We encourage you to program contemporary music and hope that the foregoing information has helped to demystify the process of obtaining permission. Following these guidelines will help you avoid the most common problems and will expedite the process.

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About Boosey & Hawkes

Our catalog of twentieth century music is unrivaled, combining an impressive list of great names from the past with many of the most dynamic and influential composers of our time. B&H works are among the most frequently programmed in the concert hall and on stage, and our printed music is used worldwide in concerts, schools, and homes.