

## **Said The Author To The Church, “You Violated My Copyright, Now Pay Up.”**

By Don Stevens

One of the not so secret dangers of publishing a newsletter or church bulletin is that the “perfect” article, poem, picture, or other “artistic work” will leap from the webpage and tempt you to insert it into your publication. It will be exactly what you are looking for in terms of theme and content and it will fit exactly the space you have to fill. Unfortunately, whenever you are using anything that was originally created by a third-party, especially those “perfect” materials, you should assume that the work is protected by copyright law. Religious organizations are not exempt from the copyright laws, even though their own publication of the work is for nonprofit reasons like information, inspiration, or invitation.

The owner of the copyrighted material has the exclusive right to reproduce or copy the work, or even to modify the work in a way that is based upon the original work. The owner, not the church has the right to distribute copies of the work by publication, mail, Internet, publication on a website, distributing teaching handouts, distributing bulletins at a church service or handing out copies of scripts or music. The owner has the exclusive right to perform the work publicly. Performances include showing a movie at an organization function, performing a play, reciting a poem, reading aloud from a book, or playing music. The owner of the copyrighted work has the right to prevent the use of his or her name as the author of any work which he or she did not create. The law permits the owner of the creative work to prevent any modification of the work including digital modification.

Copyright protection for works created after January 01, 1978 is the life of the author +70 years. For corporate publications, copyrights are enforceable for 95 years from publication or hundred and 20 years from creation, whichever is shorter. Even more significant is that if your congregation violates the rights of the owner of the copyright, damages can be awarded against you for not less than \$200 per copy made or distributed and the general range of damages can be between \$750 and \$30,000. The court can also award the owner of the copyright legal fees and costs in bringing the enforcement action. The owner of the copyright may be able to elect “statutory” damages instead of having to prove any actual damages. This means that the damage is assumed and no further proof is required.

Many congregations are very aware of these issues with respect to musical works and several online licensing sources can help the congregation stay in compliance with copyright laws. A newsletter that is “published” only to members of the congregation may not seem like much of a copyright violation, even for protected works. The problem is that from an ethical and legal standpoint, the copyrighted work belongs to the author and to no one else. The congregation has no more right to use and publish that copyrighted work for its own purposes than anyone else has to take and use someone else’s property.

The options are fairly simple: (1) do not use the material or; (2) get permission from the author to use the material in the way you want to; or (3) obtain a license to use the material from someone authorized to grant such a license on behalf of the author, or (4) provide an electronic link to the original copyrighted materials.

Even a little Internet research will reveal that there are certainly exceptions to the broad copyright protection given to authors and creators, but you can almost bet that the author may disagree with your personal determination that the particular use of the material was within one of the recognized exceptions. It may also be tempting to feel that the use you will make of the material does not damage the owner and is being used for a noble purpose. Copyright laws make no such distinction. Likewise, it may be tempting to believe that the author will never discover the infringement. In this day and age of electronic publication, however, you have no way of limiting the scope of your publication to the audience that you intended. The scope of potentially copyrighted materials is very broad, and the damages that might be assessed for each “publication” are potentially devastating.