



How Bands and Co-Writers Divide Percentage Shares In A Song

By: Bobby Borg

UNDER COPYRIGHT LAW, as soon as one of your original song ideas is recorded on a cassette tape or the lyrics to one of your compositions is written on a sheet of paper, a copyright is formed. A copyright grants you the exclusive "first right" to reproduce, distribute, perform, and sell your compositions to the public. But what does copyright law say about your rights when an original idea is formed between two or more people; as in the case when a joint work is created? This is an area where things get a bit more tricky. Therefore, a few principles regarding joint works must be understood between the authors. The most important principle has to do with ownership.

Lets begin by taking a look at what copyright law says, then explore the exceptions to copyright law per written agreement, and finally consider the "all for one, one for one philosophy."

Division Of Ownership Under Copyright Law

There's a presumption under copyright law that the authors of a joint work are automatically considered equal contributors. This simply means that if a band writes a song, each writer automatically owns an equal share-no matter how big or small their musical or lyrical contribution.

Determining a **MUSICALLY OR LYRICALLY** contribution is less simple. A "lyrical" contribution is obviously the words written as part of a musical composition. A "musical" contribution, however, is what's often the source of great confusion. Neil Gillis, Vice President of A & R And Advertising At Warner/Chappell Music, says that a musical contribution includes the melody, as well as any pre-existing riff or groove that becomes an integral hook to the song. Take the drum part to the song "Wipe Out," for example, or the bass riff to the song "Come Together." Would these songs be the same if either part was excluded? Certainly not! Nevertheless, Neil Gillis warns that he would never walk out of a writing session without first being clear among all the writers what percentage of each composition he owned. A simple agreement will suffice. It's not even a bad idea to record writing sessions on a small recorder, and to keep copies of original lyric sheets in case a dispute between writers ever materializes. Unfortunately, disputes between writers are not uncommon.

Exceptions To Copyright Law Per Written Agreement

Keeping in mind what copyright law says, if the percentage split in a composition is intended to in any way to be other than equal, there needs to be a written agreement setting forth what that split really is. For instance, if the other members of your band agree that the bass player's contribution in a song should only entitle him to a ten percent share, this must be put in writing!

You may be wondering whether any musician would carelessly agree to a smaller percentage share than he or she actually deserves. It's been known to happen! In fact, I've known several musicians who, throughout the course of performing with one extremely successful rock singer (who must remain

anonymous), signed away 100 percent of their song shares in return for a small sum of money. Not realizing the potential value of their shares over the long term, the guys felt that it was what they needed to do at the time to keep their positions in the band. Needless to say, they're all kicking themselves now. This is one case where you want foresight, not hind sight, to be 20/20.

The "All For One, One For All" Philosophy

With all this talk of what's copyrightable and who's entitled to what, you might ask what happened to the "All for one, one for all" philosophy that most young bands and writers swear to. After all, if a group of writers stuff themselves into a practice room to spend hours of their valuable time experimenting with song ideas and recording demos, is it really fair that the harmonica player gets zero interest in a song just because he wasn't feeling as lyrically or melodically creative as the others that day? And what happens when all the writers make relevant suggestions and have to determine whose chorus idea gets used? Can this potentially turn the writing process into a competitive game of who's getting credit rather than focusing on writing the best song possible? I know this all sounds a bit immature, but it's a very real problem. Consequently, many bands have an initial agreement stating that all of its members will receive an equal split in the songs regardless of who comes up with what.

The "all for one, one for all philosophy" makes perfect sense at first, and works for many years of a relationship. However, once a group becomes successful and everyone in the industry begins telling the vocalist or guitarist that he or she's the real star and genius of the band, trust me-the divisions in the new songs will quickly change in their favor. For example, guitarist Stone Gossard and vocalist Eddie Vedder wrote most of Pearl Jam's songs, yet the band originally split the percentages in its compositions equally-each member (five in total) received 20 percent. However, as the group became more successful and vocalist Eddie Vedder was recognized as "the star" or "the man," essentially becoming the only irreplaceable member of the group, the band wanted to keep him happy. The group allotted 36 percent of each song to Vedder, and 16 percent went to each of the other three members of the band. In another-far more drastic-example, Jimmy Page and Robert Plant of Led Zeppelin took it upon themselves to begin wandering off on their own to a cottage in Scotland called Braun-yur and demoing complete song ideas for Zeppelin III. In other words, this is where the other members of the group began to get cut-out of the songwriting process. Surely no one wants to lose out on their profitable piece of the pie, but the harsh reality is that there's usually one or two key writers in a group dynamic who are the principle creators and genius, and it takes a great amount of maturity on the part of the other members to somehow recognize and deal with this-plain and simple!

Bobby Borg is the author of: "The Musician's Handbook: A Practical Guide To Understanding The Music Business," published by Billboard Books.

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