



INFORMATION

ARRANGEMENTS ELIGIBLE FOR PROTECTION

1. PUBLIC DOMAIN WORKS' ARRANGEMENTS ELIGIBLE FOR PROTECTION

Which criteria must be applied for an arrangement eligible for copyright protection - what are the requirements for such an arrangement to be registered with GEMA?

Article 3 of the German Copyright Act stipulates that arrangements of a work which are personal intellectual creations of the arranger (...) shall, without prejudice to the copyright in the adapted work be protected as if they were independent works. The insubstantial adaptation of an unprotected musical work, is, according to the legal provision, however not protected as an independent work.

An arrangement eligible for protection therefore requires a recognisable independent creative effort of an arranger so that - by changing or expanding the musical theme of the original, for example - a new, independent work is created.

In contrast to such an arrangement eligible for protection are usages of the original work which leave the musical theme of the original mainly unchanged and transpose the sheet music of the original true to the original work. These usually include e.g. editorial efforts such as publishing an existing musical work. Examples such as transposing a work into another key or register, or the note-for-note transcription of existing voices for another instrument, adding recital notes, ornaments, fingering etc., doubling of voices or adding obbligati in a parallel movement (e.g. an interval of a third or a sixth) or the reduction of existing score voices to a piano movement usually does not count as an arrangement eligible for protection.

In cases of doubt, GEMA's works committee shall make the relevant decision. Inquiries must be sent to GEMA in Munich, Music and Committee Services, P.O. Box 80 07 67, 81607 Munich, Phone (089) 48003-409.

Registration of public domain works' arrangements eligible for protection with GEMA

Works which were created using third party works or third party melodies must be marked accordingly when being registered. Furthermore, authors and titles of the original works, and the respective place in the source of the used works must be indicated. Upon request, a copy of the sheet music of the original work that was used must be submitted in addition to the deposit copy of the registered arrangement.

If an arrangement is based on a protected arrangement of said original work instead of an original work within the public domain, the following provisions shall apply for the arrangement of a protected work.

GEMA INFORMATION ON ARRANGEMENTS ELIGIBLE FOR PROTECTION

2. ARRANGEMENT OF PROTECTED WORKS

The prerequisite for an arrangement is a work which was arranged and whose basic individual traits were kept. While the copyright in the arrangement thus has its own copyright, it is still dependant on the original work. What this means is that an arranger needs an authorisation by the author of the protected original work in order to publish or exploit his/her arrangement.

In the case of published works, the original publisher or its German sub-publisher is usually the point of contact for obtaining such an authorisation. Only once the relevant authorisation has been granted, arrangers shall have an entitlement to their share in the work pursuant to the GEMA distribution plan.

Melody protection

In music, so-called melody protection shall apply, which means that a melody must not be taken from a work and used as a basis for a new work in a recognisable manner. In this context, legislation considers a "melody" to be a tone sequence which gives a work its individual character. It is therefore irrelevant whether e.g. one or four or seven bars were taken from the protected work and used in a new work. GEMA therefore insists on obtaining an authorisation by the original author and/or publisher.

Arrangements of lyrics / musical settings

Anyone wishing to set a protected poem to music needs to obtain the authorisation of the poet and/or publisher in order to publish or exploit his/her musical setting. The same shall apply in cases where the lyrics are translated or the previous (original) lyrics are to be replaced by a new version. Subsequent lyrics, i.e. adding lyrics to a work that had previously been instrumental, require the authorisation of the author and/or publisher of the original work. The same shall apply for sub-lyrics and special lyrics (translations, arrangements of lyrics, additional lyrics).

Registration of public domain works' arrangements eligible for protection with GEMA

An authorisation for the arrangement or the setting to music must always be obtained from the rights owner of the original work first, before submitting it together with the notification that has to be filed for arrangements of works protected by copyright - the same applies for the setting to music of protected lyrics. The authorisation must state whether a participation of the arranger pursuant to the GEMA distribution plan has been authorised or excluded.

Search for rights owners for protected works on the internet <https://online.gema.de/werke/>

3. PRINT ARRANGEMENT/REPRINT RIGHTS

Publishers which have merely been assigned the right to (re)print or arrange works, while the performance revenue shall be reserved for the original publisher, shall carry out the notification taking this fact into consideration. Should a share of the performance revenue need to be co-allocated to a publisher, the work must be notified and the notification must be accompanied by the authorisation of the original publisher relating to the participation in the performance revenues.

A print publisher thus authorised by the original or sub-publisher may therefore disseminate the work in their own print edition and thus benefits from the print business, but is usually not participating in the revenue generated by the musical work.

An authorised print arranger, on the other hand, may be entitled to participate accordingly pursuant to the GEMA distribution plan if his/her arrangement has been exploited. The print publisher must have acquired the printing and arrangement rights in an orderly way from the original and/or sub-publisher; the agreement that has been concluded between the publishing parties must state whether an arranger's participation has been authorised or excluded pursuant to the GEMA distribution plan. A publishing agreement which has only been concluded between the print publisher and arranger (for music and/or lyrics) is therefore no sufficient prerequisite to register an arrangement with GEMA.