



Music Licensing Sample Clearance Checklist

Using or sampling copyrighted music in your own requires properly licensing or “clearing” of the sample. Failure to do so can lead to production delays, music removals, costly infringement fines, and higher sampling fees! It’s critical to properly clear every piece of music you intend to borrow or it will cost you money.

Follow this step-by-step guide to clearing samples for copyrighted music:

☐ **Identify the Copyrights Holders**

There are two copyrights for every recorded piece of music. You must find the owners for both!

- ☐ Musical Composition Copyright - owner of the music & lyrics (composition)
- ☐ Sound Recording (Master) Copyright - owner of the particular sound recording

☐ **Verify Ownership for Each Publisher & Sound Recording Copyright**

Depending on how old the song is, the owner may no longer be the original copyright holder.

- ☐ Verify the publishing company of each musical composition copyright owner
 - ☐ Check with the major PROs (ASCAP, BMI, SESAC) for contact information
- ☐ Source the record label that released the original sound recording
 - ☐ Verify that the record label still owns the sound recording copyright in the song

☐ **Request Permission(s) to Use the Sample**

Your request should include critical details about the sampled use, distribution, and fees.

- ☐ Draft your request details in one place and/or an email request template with details
- ☐ Find licensing request instructions or contact information for each publisher/owner
- ☐ Submit a request to EACH copyright owner regardless of ownership splits
- ☐ Mark and track request submissions and follow-ups on your calendar



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The first several steps of the sample clearance process can usually be done on your own.

Success with the following steps will depend on your experience level, the parties involved, the agreement's complexity, and your ability to negotiate or draft on your own.

☐ **Negotiate Any Licensing Terms & Fees**

Once you've received approvals of use from all copyright holders...

- ☐ Discern whether you'll negotiate fees together or separately (if multiple owners)
- ☐ Research comparable fees based on the popularity or success of the sampled song
- ☐ Prepare a detailed proposal including persuasive points supporting your initial offer
- ☐ Negotiate your sample fee based on quantitative and qualitative assessments
- ☐ Include incentives, upsells, or distribution metrics for negotiating lower base fees

☐ **Draft Your Licensing Agreement**

Next you'll want to formalize and memorialize your agreed terms in writing.

- ☐ Use your prepared template or have an attorney draft or edit an agreement for you
- ☐ Know which licensing clauses will have the most importance in that agreement
- ☐ Allocate time for any back and forth changes and edits to your agreement
- ☐ Review your agreement for improvements and ambiguities (or use an attorney)

☐ **Document Everything For Royalty Collections**

You'll want to keep copies of all agreements, renewal terms, and royalty statements.

- ☐ Place one copy in a secure place and one copy with a trusted colleague or agent
- ☐ Start and maintain a file to keep all royalty statements in one place
- ☐ Keep record of usage dates, incentive progress for bonuses, and renewal options
- ☐ Be familiar with audit provisions and when or how often they'll be required



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☐ **General Considerations For Your Project**

Depending on your situation, you'll need to have done the following:

- ☐ Obtained a clearance for each sampled song or sampled part of a song
- ☐ Started the process early enough not to interrupt your production deadlines
- ☐ Used a workflow template to manage and track the progress of multiple clearances
- ☐ Considered a contingency plan in advance for unobtainable clearances
- ☐ Maintained a database of contacts to facilitate faster clearances in the future

The amount of time to clear a sample can vary but for songs owned by large publishing houses, it's not uncommon for the process to take 3-6 months. These publishing houses are inundated with requests so you'll simply have to wait as they move through their queue.

You'll also want to avoid the many common mistakes people make when licensing music. To learn more, check out our article [the Top Ten Artists and Film Productions Make When Sampling Music \(What You Need To Know To Save Money\)!](#)

Should You Hire An Attorney?

This is a pretty common question. If you are producing a significant project, you should include licensing music as part of your overall legal budget. Otherwise, it depends on your situation. Good reasons to hire an attorney are to facilitate the overall process, protect your interests, negotiate on your behalf, and to draft or review complex agreements. You might only need an attorney for just one part of the process.

If you have you can schedule a consultation at www.zalalaw.com or email us directly at info@zalalaw.com.

