

University of Rochester Journal for Law, Politics & Foreign Policy

Volume I | Issue I
Spring 2026

Individual Article

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from Streaming Revenue
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This paper examines how legal and contractual frameworks within the music industry exclude classical musicians from earning streaming revenue. It explains how public domain compositions, paired with work-for-hire agreements, concentrate copyright ownership in the hands of labels and orchestral management rather than performers. By comparing this structure to the film industry's system of residual payments, a possible alternative is presented for compensating ongoing artistic labor.

I. Introduction

In the 21st century, streaming services have become a standardized way to consume art and media. Platforms such as Spotify, Apple Music or YouTube Music have dominated the music streaming industry. Yet, how do classical musicians fit into these interfaces? There are a multitude of recordings by acclaimed orchestras on said platforms, yet the musicians who take part in these recordings often receive little to no ongoing financial compensation for their work. In an era where copyright laws define who owns and profits from music, this raises the question: Is this system fair, or should there be a change to how it works? One might be inclined to believe no, as classical musicians are excluded from streaming revenue due to copyright ownership structures, work-for-hire contracts, and the absence of widely negotiated residual systems that would recognize their performances as ongoing labor.

II. Argument

The process of artists and labels normally profiting through streaming services begins with the artist and a label drawing up contracts about their collaboration process, monetary agreements, and most importantly, arrangements regarding composition and master recording copyright. Composition copyright refers to the musical work itself, including melody, harmony, lyrics and arrangement rights.

On the other hand, the master recording copyright only covers the final recording produced. In many traditional recording contracts, labels often control the master recording while the artist themselves controls the composition copyright (Druckman). The contract that binds the owners of the copyright, paired with U.S.C. § 106 which states: “The owner of copyright... has the exclusive rights to... reproduce... distribute... perform... and display the copyrighted work...” (Cornell Law School) would lead to the owners then uploading the music on the streaming services to monetize.

The main difference for classical music recordings is that the composition copyright has expired and entered the public domain. According to 17 U.S.C. § 302(a), “Copyright in a work created on or after January 1, 1978, subsists from its creation and... endures for a term consisting of the life of the author and 70 years after the author’s death” (Cornell Law School), most music from standard classical repertoire would have already entered the public domain in the year 2026. As noted above, composition copyright is often the only aspect that belongs to the artist. Since that does not exist in most cases with classical recordings, master recording copyright holders, being the orchestral management and the label typically hold full control over the copyright and they compensate musicians financially under the legal term of “work for hire.” Musicians that play in these recordings are usually part of the orchestra in the first place, hired the same way any other company hires an employee, or treated as independent contractors if additional musicians are needed. Although some of these recording sessions take place in a studio session, it is still common practice to have these recorded during live performances. In 17 U.S.C. § 201(b) that outlines Ownership of Copyright, it states: “In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright” (Cornell Law School). From a legal standpoint, the musicians are effectively treated as contract laborers during the recording and in order to accept payment, they give up ownership of the recording.

In the end, regardless of how many listens the recording gets, all musicians involved have no legal claim to the revenue. Currently, the American Federation of Musicians of the United States and Canada (AFM), who represent over 70,000 musicians in North America, is one of the only organizations fighting to negotiate fair wages, proper ownership and better benefits for musicians in America. However, that is not the case for all related art forms. Drawing a quick comparison to the film industry, the Screen Actors Guild–American Federation of Television and Radio Artists (SAG-

AFTRA) and, prior to its rebrand, the Screen Actors Guild (SAG) protect the way film actors receive payment. In 1953, SAG realized that actors were not being compensated for the repeated use of their performances. Regardless of how many times a film was aired, the actors were only paid once. An agreement was made that same year with motion picture producers to promise residuals to actors. This allowed actors to receive continuous compensation when their works were shown beyond pre-negotiated terms, hence considered “ongoing labor.” This agreement then evolved alongside advancements in the way movies are shared to the public: in the 1970s with the popularization of DVDs, VHS tapes and cable TV reruns, and in the 2010s with the introduction of streaming services. This agreement was even extended to recorded productions of Broadway musicals and theatrical productions (SAG - AFTRA). Even though U.S. labor laws do not clearly define the term “ongoing labor,” unions and representatives bargaining for such treatment are protected under the 29 U.S.C. § 157 and 29 U.S.C. § 159(a), and refusal to bargain is unlawful, though employers are not required to agree to the specific terms, in accordance with 29 U.S.C. § 158(a)(5) (Cornell Law School). The existence of residuals in the film industry demonstrates that the inclusion of classical musicians from streaming revenue is not impossible, but rather similar protections have not been widely or effectively negotiated by the AFM in the context of classical recordings.

Inspired by the film industry, the music industry could implement a similar legal protection system that could protect and compensate musicians. If more light were shed on this issue, the AFM would be pushed to come up with a system that could recognize musicians financially every time their recordings are being streamed, broadcast, or reused in any way. In fact, such systems already exist in film and television scoring, where musicians are compensated through secondary market payments. Secondary market payments are residuals that are paid to musicians, orchestrators and music preparation personnel when a film or television show is reused in "secondary" markets such as streaming services, DVD/Blu-ray discs, airline exhibitions and airs on cable TV, after its initial release. The Film Musicians Secondary Markets Fund is the organization in charge of regulating and releasing such funds (FMSMF). This proves that an ongoing compensation for musicians is not only feasible, but already in effect in a different part of the industry. Using this as an outline, the same could be applied towards classical music recordings. Implementing this system would only redefine the way the industry works on contracts, but not necessarily alter the nature of the work itself, legally recognizing that classical music recordings have value within the digital marketplace and can generate revenue indefinitely for musicians.

III. Conclusion

In today's digital age, technology has evolved how classical music is distributed and consumed. However, the legal protection of classical musicians is out of date. As seen through the structure of copyright law, contractual agreements and labor protections, classical musicians are placed in a disadvantageous position where their contributions are treated as one-time labor rather than an ongoing work. Without a change to the way classical musicians are compensated for their contributions in producing recordings, they will continue to be excluded from the long-term value their performances generate, reinforcing the system's norm of excluding those who bring the music to life. If streaming defines the future of music consumption, then it is worth questioning whether the law should continue to overlook the very musicians who sustain it.

References

1. Druckman, Howard. "Composition vs Master – Breaking Down Music Copyrights." SOCAN Words and Music, August 21, 2025.
<https://www.socanmagazine.ca/socan-academy/the-breakdown-song-rights-versus-master-rights/>
2. Cornell Law School. "17 U.S. Code § 106 — Exclusive Rights in Copyrighted Works." Legal Information Institute. <https://www.law.cornell.edu/uscode/text/17/106>
3. Cornell Law School. "17 U.S. Code § 302 — Duration of Copyright: Works Created on or after January 1, 1978." Legal Information Institute.
<https://www.law.cornell.edu/uscode/text/17/302>
4. Cornell Law School. "17 U.S. Code § 201 — Ownership of Copyright." Legal Information Institute. <https://www.law.cornell.edu/uscode/text/17/201>
5. SAG-AFTRA. "History of Residuals." SAG-AFTRA.
<https://www.sagaftra.org/membership-benefits/residuals/history-residuals>
6. Cornell Law School. "29 U.S. Code § 157 — Right of Employees as to Organization, Collective Bargaining, etc." Legal Information Institute.
<https://www.law.cornell.edu/uscode/text/29/157>
7. Cornell Law School. "29 U.S. Code § 159 — Representatives and Elections." Legal Information Institute. <https://www.law.cornell.edu/uscode/text/29/159>
8. Cornell Law School. "29 U.S. Code § 158 — Unfair Labor Practices." Legal Information Institute. <https://www.law.cornell.edu/uscode/text/29/158>
9. Film Musicians Secondary Markets Fund. "Musician's Overview."
<https://www.fmsmf.org/musicians/>

