

## The Past, Present, and Unclear Future of Rerecords

By: Skylar Falcon

Rerecording one's music is an uncommon undertaking, yet it is not unheard of. An artist may choose to rerecord their work for a variety of reasons. But how is it allowed? Wouldn't the rerecord be encroaching on the record label's copyright?

No, because a song and a record are two different entities and can be owned by two parties. "A song is something that could, theoretically, be represented on sheet music, and can be covered by other artists, rearranged as an acoustic version or another genre completely, remixed, performed live, and, of course, rerecorded by the original artist."<sup>1</sup> Some may also refer to this as a musical work.<sup>2</sup> The artist will typically own the copyright to the song. The record is the specific recording of a song usually owned by the record label.<sup>3</sup> The original record is referred to as the master.<sup>4</sup> Owning the master of a work entitles one to complete control of that recording for purposes such as licensing.<sup>5</sup> So, when artists are rerecording their work, it is almost always because they are no longer in control of their masters and would like to have more power over their art.

### *The Past*

One of the first well-known instances of an artist or musical group rerecording their old tracks was the Everly Brothers. After leaving Cadence Records in 1960, the duo wanted to cut all

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<sup>1</sup> Kyle Munzenrieder, "Taylor Swift's Plan to Re-Record Her Music Isn't Actually Uncommon," *W Magazine*, November 17, 2020, <https://www.wmagazine.com/culture/taylor-swift-re-record-frank-sinatra>.

<sup>2</sup> "What Musicians Should Know About Copyright," U.S. Copyright Office, accessed March 29, 2024, <https://www.copyright.gov/engage/musicians/>.

<sup>3</sup> Kyle Munzenrieder, "Taylor Swift's Plan to Re-Record Her Music Isn't Actually Uncommon," *W Magazine*, November 17, 2020, <https://www.wmagazine.com/culture/taylor-swift-re-record-frank-sinatra>.

<sup>4</sup> Kyle Munzenrieder, "Taylor Swift's Plan to Re-Record Her Music Isn't Actually Uncommon," *W Magazine*, November 17, 2020, <https://www.wmagazine.com/culture/taylor-swift-re-record-frank-sinatra>.

<sup>5</sup> Amuse, "What Does It Mean to Own Your Masters?" *Amuse*, February 1, 2024, <https://www.amuse.io/en/categories/industry/owning-your-masters/>.

ties with their former label. At Warner Brothers, they rerecorded their discography and used the new masters going forward. Cadence went out of business a few years later due in large part to the Everly Brothers' departure.<sup>6</sup> Seeing what happened to Cadence, many labels started adding clauses in their contracts which stipulated that artists would have to wait a set amount of time—five or seven years after the original release date or two years after their contract expired—before rerecording their work.<sup>7</sup>

That same year, in 1960, Frank Sinatra famously left his record label as well. Sinatra left Capitol Records to form his label, which was fittingly named Reprise Records.<sup>8</sup> Sinatra was an advocate for artist's rights and created Reprise Records to give artists like himself greater control of their music. At the time, Sinatra was one of the most famous musicians on the scene, so his rerecords had the potential to have substantial commercial success.<sup>9</sup> While his new recordings did not have the same success as artists in the modern era, Sinatra's decision to rerecord some of his greatest Capitol hits laid the groundwork for future musicians to do the same.

As the years progressed, more artists began to rerecord their music. Def Leppard is another example. In an interview with *The Hollywood Reporter*, lead singer of Def Leppard, Joe Elliott, commented on the group's fight with their label and their reasoning for rerecording their songs. "It's about principle. I'd be lying if I didn't say it was about money because the problem we've got is they want to pay us what we think is a ridiculously low rate."<sup>10</sup> As the era of digital

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<sup>6</sup> Admin, "What Do Taylor Swift, the Everly Brothers and Def Leppard Have in Common?" *WDET 101.9 FM*, December 11, 2020, <https://wdet.org/2020/12/11/what-do-taylor-swift-the-everly-brothers-and-def-leppard-have-in-common/>.

<sup>7</sup> Anne Style, "As Taylor Swift Rerecorded Her 'Red' Album, Universal Reworked Contracts," *The Wall Street Journal*, November 12, 2021, [https://www.wsj.com/articles/as-taylor-swift-rerecorded-her-red-album-universal-reworked-contracts-11636741201?st=1mrh25tq8jpyr&reflink=article\\_copyURL\\_share](https://www.wsj.com/articles/as-taylor-swift-rerecorded-her-red-album-universal-reworked-contracts-11636741201?st=1mrh25tq8jpyr&reflink=article_copyURL_share).

<sup>8</sup> Annie Zaleski, "The Rhymes and Reasons Behind Re-Recording Your Own Classics," *NPR*, April 12, 2021, <https://www.npr.org/2021/04/12/986430235/the-rhymes-and-reasons-behind-re-recording-your-own-classics>.

<sup>9</sup> Ibid.

<sup>10</sup> Shirley Halperin, "Def Leppard's Joe Elliott on Battle With Label: 'We Don't Want to Work for the Man, We Want to Be the Man' (Q&A)," *The Hollywood Reporter*, August 1, 2012,

downloads dawned, labels were paying artists far less than they were for the sale of physical copies of the music, such as CDs or vinyl. In Def Leppard's situation, their label, Universal Music, offered only a quarter of what the band made from CDs.<sup>11</sup> Thinking about the logistics of such a project, Elliott further commented, "If we put rerecords up against the originals, nobody would buy the rerecords. So what we're trying to create is what they know by making as close as we can, forgeries of what we did in '83, '81, '87..."<sup>12</sup> Def Leppard's struggle for just compensation for digital downloads was only the beginning, as around the corner, streaming services were about to assert their dominance and change the game for artists in a major way.

### *The Present*

In October 2023, Taylor Swift released *1989 (Taylor's Version)*, her fourth rerecord of one of her previous studio albums. It received wide critical acclaim and global recognition, smashing through previous streaming records and climbing to the top of charts worldwide.<sup>13</sup> Her three previous rerecords—*Speak Now (Taylor's Version)*, *Red (Taylor's Version)*, and *Fearless (Taylor's Version)*—have all faced similar success.<sup>14</sup> But what caused her to rerecord her old albums? Did she have reasons similar to Sinatra's, or did her interests align more with Def Leppard's? To understand, it may be best to start from the beginning.

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<https://www.hollywoodreporter.com/news/music-news/def-leppard-joe-elliott-rerecording-universal-my-chemical-romance-357344/>.

<sup>11</sup> Shirley Halperin and Eriq Gardner, "Pour Some Sugar Again: Why Def Leppard Is Rerecording Hits," *The Hollywood Reporter*, August 1, 2012, <https://www.hollywoodreporter.com/news/general-news/def-leppard-universal-recording-hits-356397/>.

<sup>12</sup> Shirley Halperin, "Def Leppard's Joe Elliott on Battle With Label: 'We Don't Want to Work for the Man, We Want to Be the Man' (Q&A)," *The Hollywood Reporter*, August 1, 2012, <https://www.hollywoodreporter.com/news/music-news/def-leppard-joe-elliott-rerecording-universal-my-chemical-romance-357344/>.

<sup>13</sup> Ben Sisario, "Taylor Swift's Blockbuster '1989' Rerecording Tops Sales of Original," *The New York Times*, November 6, 2023, <https://www.nytimes.com/2023/11/06/arts/music/taylor-swift-1989-taylors-version-sales.html>.

<sup>14</sup> Hugh McIntyre, "Taylor Swift's Re-Recorded Albums Are Huge Successes—But They Were A Real Risk," *Forbes*, July 27, 2023, <https://www.forbes.com/sites/hughmcintyre/2023/07/27/taylor-swifts-re-recorded-albums-are-huge-successes-but-the-y-were-a-real-risk/?sh=35e57c4d1074>.

Swift started creating music with her former label, Big Machine Records, in 2006 when she released her debut single “Tim McGraw.” Her first studio album, *Taylor Swift*, came out later that same year. The album was well-received, putting Swift on the country music map. Her success was also a huge boost for Big Machine Records, which had only been founded the year prior.<sup>15</sup> As Swift’s career progressed, she became the most successful artist signed to Big Machine Records by a wide margin. When Swift’s contract was set to expire in 2018, she alleged in a Tumblr post that she was not given a proper opportunity to buy the masters from her previous six albums: *Taylor Swift*, *Fearless*, *Speak Now*, *Red*, *1989*, and *reputation*.<sup>16</sup> She stated, “Instead I was given an opportunity to sign back up to Big Machine Records and ‘earn’ one album back at a time, one for every new one I turned in. I walked away because I knew once I signed that contract, Scott Borchetta would sell the label, thereby selling me and my future.”<sup>17</sup> Swift signed with Republic Records, who agreed to Swift owning the masters of any work she produced with them. Soon after Swift’s departure from Big Machine, Borchetta sold the label to Scooter Braun, who is best known for managing artists such as Justin Bieber, Ariana Grande, and Kanye West. To Swift, this was her “worst case scenario.”<sup>18</sup> She alleges that Braun bullied her when she was at her lowest and that Borchetta sold her masters to him with knowledge of Braun’s behavior.<sup>19</sup>

After word of the sale got back to Swift, she announced that she was going to rerecord all of her old albums from her time with Big Machine and dub each rerecord “Taylor’s Version” to

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<sup>15</sup> “Taylor Swift,” *Rolling Stone*, accessed March 29, 2024, <https://www.rollingstone.com/t/taylor-swift/>.

<sup>16</sup> Andrew Flanagan and Anastasia Tsioulcas, “Taylor Swift’s Former Label Big Machine Is Sold, Rankling The Star,” *NPR*, July 1, 2019, <https://www.npr.org/2019/07/01/737613627/taylor-swifts-former-label-big-machine-is-sold-rankling-the-star>.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> Raisa Bruner, “Here’s Why Taylor Swift Is Re-Releasing Her Old Albums,” *Time*, October 27, 2023, <https://time.com/5949979/why-taylor-swift-is-rerecording-old-albums/>.

show that she owned them.<sup>20</sup> Taking the risk of actualizing Def Leppard’s fear of no one buying her rerecorded album, Swift first released *Fearless (Taylor’s Version)* in 2021, then *Red (Taylor’s Version)* later that same year with bonus songs attached to each that were additionally labeled “From the Vault.”<sup>21</sup> Taylor’s Version of songs from both *Fearless* and *Red* vastly outperformed the originals on streaming services. According to *Billboard* statistics in July 2023, “Since its November 2021 release, *Red (Taylor’s Version)* has scored 2.86 billion on-demand song streams, while *Red* has earned 476.48 million by comparison. So listeners are still streaming the original albums in the millions, but the Taylor’s Version streams have handily surpassed their totals.”<sup>22</sup> This phenomenon was not limited to streaming, sales of the Taylor’s Version rerecords dominated the original counterparts as well. “For every 1 person who has purchased the original version of *Red*, about 21 people have picked up *Red (Taylor’s Version)*.”<sup>23</sup>

With only two albums left to rerecord—*Taylor Swift* and *reputation*—Swift will soon own the masters to all of her work. Her mission will be done, but with a brand-new album releasing in April 2024, it doesn’t seem like she has any plans of stopping soon.<sup>24</sup>

### *The Unclear Future*

Taylor Swift’s unprecedented success with her rerecorded albums has shaken up the music industry. Labels have since gotten nervous about other artists following in her footsteps.

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<sup>20</sup> Hugh McIntyre, “Taylor Swift’s Re-Recorded Albums Are Huge Successes—But They Were A Real Risk,” *Forbes*, July 27, 2023, <https://www.forbes.com/sites/hughmcintyre/2023/07/27/taylor-swifts-re-recorded-albums-are-huge-successesbut-the-y-were-a-real-risk/?sh=35e57c4d1074>.

<sup>21</sup> Jason Lipshutz, “7 Key Stats Proving That Taylor Swift’s First Two ‘Taylor’s Version’ Re-Recordings Have Been Dominant,” *Billboard*, July 6, 2023, <https://www.billboard.com/lists/taylor-swift-taylors-version-stats-chart-numbers/and-its-earned-some-radio-spins-to-o/>.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Alyssa Bailey, “Taylor Swift’s New Album *The Tortured Poets Department*: All We Know,” *ELLE*, February 16, 2024, <https://www.elle.com/culture/music/a46638991/taylor-swift-the-tortured-poets-department-album-songs-release-date/>.

And it certainly makes sense why. The more popular a rerecord gets, the more devalued the original becomes.<sup>25</sup> So, just as they did when the Everly Brothers broke the mold in 1960, labels are starting to change the stipulations in artists' contracts regarding rerecords. “The major labels . . . have recently overhauled contracts for new signees, according to top music attorneys, some demanding artists wait an unprecedented 10, 15 or even 30 years to re-record releases after departing their record companies.”<sup>26</sup> Some are even opting to not allow rerecords at all. A clause that used to be just another part of the fine print has become a highly negotiated and scrutinized aspect of record deals.<sup>27</sup> The clauses may be easier for more established artists to avoid as they have more leverage in negotiations. However, small or up-and-coming artists may be influenced to take the deal just so they could have a record deal.<sup>28</sup>

Overall, we are not totally sure just how much of an impact Taylor Swift has had on the way recording contracts are conducted. But it seems clear that Taylor’s Version has changed the music landscape and paved the way for more open discussions about artists' control over their work.

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<sup>25</sup> Steve Knopper, “Labels Want to Prevent ‘Taylor’s Version’-Like Re-Recordings From Ever Happening Again,” *Billboard*, October 30, 2023, <https://www.billboard.com/pro/taylor-swift-re-recordings-labels-change-contracts/>.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.