

King Crimson sues Universal Music Group over unpaid royalties from streaming Kanye West's "Power" since 2010

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In July 2010, rap recording artist Kanye West released a single called "Power," included later that year on his fifth studio album, *Beautiful Dark Twisted Fantasy*. The song, which included vocals by the soul singer Dwele, was identified as something of a hip hop comeback for West.

"Power" entered the Billboard top 200 at Number 20 and was nominated for a Grammy award that year in the category of Best Rap Solo Performance.

West's 2010 hit song is also notable for being built around audio sampling from the UK progressive rock band King Crimson's song "21st Century Schizoid Man." West interspersed the audio sample—the title line from the King Crimson song—with the verses of his rap lyrics.

When West first released the song there was no licensing agreement with King Crimson for sampling the band's original recording. Upon becoming aware of this copyright infringement, Declan Colgan Music Ltd (DCM), the owner of the mechanical rights to the original version of King Crimson's song, contacted Universal Music Group (UMG) seeking an agreement.

Along with Kanye West and his production company Rock the World, UMG signed a licensing agreement with DCM and King Crimson two months later. The agreement allowed the use of the audio sample in exchange for 5.33 percent royalties on each copy of "Power" that was sold or "otherwise exploited."

The details of the contract specified that UMG was required to pay DCM a royalty based on the same terms according to which West received his royalties from the song. Meanwhile, the terms of West's agreement with UMG in 2010 stated that the royalties for streaming the track were equivalent to that of buying the physical CD.

In early March of this year, DCM sued UMG in the UK High Court for failing to follow through on their commitment regarding, in particular, the streaming

royalties being generated by "Power" over the past 12 years. As of this writing, the official video version of West's song has been viewed on YouTube 134 million times, for example.

In its suit, DCM states that the record company "has failed, and continues to fail, to comply with its royalty accounting obligations in respect of one mode of exploitation, namely the making available of the Power [r]ecording to consumers through so-called 'streaming' services."

Instead of paying a rate that is equal to physical CD sales, the DCM suit says that UMG has only paid a percentage of what the entertainment monopoly actually receives from the streaming platforms such as Spotify and YouTube for each stream, an amount that is lower than the specified agreement.

The DCM lawsuit demands that UMG submit the total payment with interest on the royalties due and also argues that the licensing agreement needs to be updated to reflect the arrangement on streaming of licensed music content moving forward.

In response to news of the lawsuit, King Crimson founder Robert Fripp posted a comment on Facebook saying it was regrettable that the monetary issues with UMG had not been resolved before the death of two members of the band, Greg Lake (1947-2016) and Ian McDonald (1946-2022). Lake's vocals and McDonald's saxophone playing are heard on the brief sample used on "Power."

Fripp also wrote, "There is a longer story to be told, and likely to astound innocents and decent, ordinary people who believe that one is paid equitably for their work, and on the appointed payday."

King Crimson was founded in 1969 and "21st Century Schizoid Man" is the opening track on the band's debut

album *In the Court of the Crimson King* released the same year. The band and album are widely considered to have represented the starting point of what later became known as progressive rock music. The genre blended elements of jazz, folk, blues and classical symphonic sounds with electric guitars, synthesizers and rock rhythms and veered away from the format and composition that was typical of top-40 radio pop music of the 1960s.

Progressive rock, which peaked in popularity in the 1970s, has also been tangentially identified with left and progressive political themes. In the case of “21st Century Schizoid Man,” the lyrics—which were written by the poet and songwriter Peter Sinfield—are a critique of the Vietnam War and present a series of images through disconnected phrases, the second stanza of which is:

Blood rack, barbed wire
Politicians funeral pyre
Innocents raped with napalm fire
21st century schizoid man

None of this content finds its way into “Power,” which utilizes the King Crimson title line to express themes that are common to West’s work such as boasting, responding to public criticism and other personal issues. West has himself described “Power” as “superhero theme music.”

The behavior of UMG in relationship to the royalties owed to DCM and King Crimson comes as no surprise. UMG is the largest of three giant corporations that dominate the recorded music industry, the other two being Sony Music Group and Warner Music Group. All of these firms are the product of a series of mergers and acquisitions over recent decades that has consolidated the industry into three megamedia conglomerates.

The Recording Industry Association of America (RIAA) has reported that 2021 industry revenue reached \$15 billion with 83 percent of this total (\$12.4 billion) coming from streaming services. Money generated by paid subscriptions, ad supported streaming, digital radio, Facebook, app licensing and TikTok increased by 24 percent from 2020.

This bonanza has more than overcome the erosion of record industry revenue from the initial unpaid exchange of digital audio files online. However, the portion of this revenue that goes to the artists has dropped precipitously. The hoarding of money and refusal to observe its contractual agreement by UMG being fought by DCM is just the tip of the iceberg.

As Roger Daltry, front man and lead singer for the rock band The Who, told *The Independent*, the music industry has been “stolen” from artists. “Musicians cannot earn a

living in the record industry anymore,” Daltry said. The 78-year-old singer continued by saying that young artists are “being robbed blind by streaming and the record companies, because the old deals with record companies that existed in the Seventies, Eighties and Nineties, they’re still working on the same percentage breaks.”

Daltry added that the companies do not do any work, “They just press a button and it goes out on digital, whereas before they had to manufacture, they had to distribute, they had to do all that stuff. They’re doing bugger-all and taking all the money, and the musicians are getting nothing.”

UMG, in particular, has a notorious history of CD price fixing, bribery of radio stations, illegal publishing and making money from unauthorized music video content. This is not to mention the decades-long sordid history of record companies like UMG obtaining contracts in which artists sign away, without being aware of it, ownership rights to their own creative works.

UMG also has a history of notable corporate malfeasance and negligence related to the catastrophic 2008 Universal Studios backlot fire. The three-alarm fire destroyed a warehouse that housed the priceless archive of as many as 175,000 original master tapes, phonograph master discs, among them unreleased outtakes, alternative versions and other irreplaceable recordings.

Although numerous artists have reported that their master tapes have turned up “missing” without explanation, UMG has maintained that only duplicates were destroyed and nothing of importance was ever lost in the fire.

On April 30, King Crimson’s Fripp posted on Facebook, “To re-iterate—I have no argument with Kanye at all. UMG’s dealings with us over a period of c. 15 years invert all the principles of The Ethical Company. UMG has been obstructionist, evasive, inequitable and incompetent; and pretty much describe and define all that I seek to avoid in any company with whom we do business...”



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