

Universal Music Group Takes a Break from TikTok

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“Now people are gonna think I know this song from tiktok”, “this song got Tiktok[i]fied”, and “what y’all know about this song” are three of the top comments on a TikTok featuring an unreleased Lana Del Rey song in a lyric video.¹ Although the song is unreleased, and it is very unlikely someone has heard the song anywhere else, these TikTok users are worried the song will hit the mainstream and become oversaturated. This is not an incredulous fear for users to have; TikTok has become a breeding ground for leaked unreleased songs and AI song covers to thrive and go viral.² The most prominent in my memory is when Lana Del Rey’s unreleased song, “Say Yes to Heaven”, went viral on TikTok and was eventually released as an official single due to its popularity.³

It may seem flattering to some artists to have an unreleased song become so beloved that they can’t ignore its popularity and must release it. And Del Rey and her team definitely capitalized on this opportunity; they released both the original version of “Say Yes to Heaven” and a sped-up version as well.⁴ But the record labels are starting to become fed up with the conditions of TikTok’s current music use and are demanding some changes.

Universal Music Group (UMG), who owns the record label Lana Del Rey is signed to, published an open letter to artists, warning them about its changing relationship with TikTok after its contract with the social media company expired.⁵ The letter is the result of negotiations to renew the contract between the two companies coming to a stalemate.⁶ The now-expired contract concerned the licensing of songs by UMG signed artists to TikTok for use in videos.⁷ UMG claims there are three critical issues that they can’t find common ground with TikTok on: appropriate compensation for UMG’s artists and songwriters, protection of human artists from the harmful effects of AI, and online safety for TikTok’s users.⁸

In the letter, UMG claims that TikTok has been “trying to build a music-based business, without paying fair value for the music.”⁹ TikTok accounts for only about one percent of UMG’s total revenue.¹⁰ UMG also claims that artists are harmed by the allowance of AI generated content on the platform.¹¹ TikTok has developed tools to enable, promote, and encourage music

¹ @hotgirlzluviana, TIKTOK (Feb. 1, 2024), <https://www.tiktok.com/t/ZTLdcaT6o/>

² See generally Annelise Gilbert, *AI Fight Complicates TikTok, Universal Music Licensing Standoff*, BL (Feb. 6, 2024, 5:05 AM), <https://news.bloomberglaw.com/ip-law/ai-fight-complicates-tiktok-universal-music-licensing-standoff?context=search&index=2>.

³ Rachel Brodsky, Lana Del Rey Shares Previously Unreleased “Say Yes To Heaven” After Success as Sped-Up TikTok Sound, STEREOGUM (May 19, 2023, 12:03 AM), <https://www.stereogum.com/2224199/lana-del-rey-shares-previously-unreleased-say-yes-to-heaven-after-success-as-sped-up-tiktok-sound/music/>.

⁴ *Id.*

⁵ *An Open Letter to the Artist and Songwriter Community - Why We Must Call Time Out on TikTok*, Universal Music Group (Jan. 30, 2024), <https://www.universalmusic.com/an-open-letter-to-the-artist-and-songwriter-community-why-we-must-call-time-out-on-tiktok/>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

created through AI on the site and has demanded a contractual right to do so.¹² UMG thinks the allowance of this content would majorly dilute the royalty pool for real, human artists.¹³ UMG lastly claims that TikTok tried to intimidate the company into accepting a deal worth less than the previous deal, far less than fair market value and not reflective of their exponential growth” by selectively removing music from the app.¹⁴ TikTok was allegedly removing the music from rising and developing artists, while keeping available the music from extremely popular artists who drive audiences to the app.¹⁵

The result of this letter and the failed negotiations is that videos on TikTok using songs that come from UMG’s signed artists have been muted.¹⁶ Any song UMG owns the publishing rights to can be taken off the platform, if the company sends a takedown notice under the Digital Millennium Copyright Act.¹⁷ This offensive move is extremely rare and has been compared to Warner Music’s strategy of pulling thousands of its music videos from YouTube in 2008 until YouTube conceded in advertising negotiations.¹⁸ What differentiates this situation from the one in 2008 is how heavily TikTok relies on music to make their platform enjoyable.

TikTok had its beginnings rooted in the music industry.¹⁹ TikTok came to be when it was merged with an app called Musical.ly; that app was deemed to be a “teen karaoke app.”²⁰ After this merger in 2017, TikTok gained popularity through people using the app to post lip-syncing and dancing videos.²¹ These types of videos are less popular but still prevalent on the app. The app still thrives in the music scene through users posting “fancams”, which are video clips set to music, of their favorite celebrities and memes utilizing sound clips from songs.²²

The focus on music and the variety of ways music is used to create content on the app has led TikTok to have “a value to the recording industry that's far beyond the money that they make from royalties”.²³ TikTok’s proliferation of music-based content has led to songs that have been outside of the current culture for decades, such as “Linger” by the Cranberries, to take off in popularity.²⁴ The rise in popularity in songs can happen organically or inorganically.²⁵

TikTok claims that UMG’s removal of music from its platform is just a showing of greed.²⁶ There is some truth in TikTok’s claim since if UMG really wanted to pay artists more, they would do so on their own accord, clearly giving TikTok the upper hand here. Tik Tok has

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Ben Sisario, *Universal Music Group Pulls Songs From TikTok*, N.Y. TIMES (Feb. 1, 2024), <https://www.nytimes.com/2024/02/01/arts/music/universal-group-tiktok-music.html>.

¹⁷ Annelise Gilbert, *AI Fight Complicates TikTok, Universal Music Licensing Standoff*, BL (Feb. 6, 2024 5:05 AM), <https://news.bloomberglaw.com/ip-law/ai-fight-complicates-tiktok-universal-music-licensing-standoff?context=search&index=2>.

¹⁸ Sisario, *supra* note 16.

¹⁹ Reece Rogers, *Music is TikTok's Past. Sounds may be its Future*, WIRED (Mar. 2, 2024 8:30 AM), <https://www.wired.com/story/tiktok-music-umg-sounds-future/>.

²⁰ *Id.*

²¹ *Id.*

²² *See id.*

²³ *Id.*

²⁴ Dan Whateley, *How TikTok is Changing the Music Industry and the Way We Discover New, Popular Songs*, BUS. INSIDER (Dec. 22, 2023, 11:18 AM), <https://www.businessinsider.com/how-tiktok-is-changing-music-industry>.

²⁵ *Id.*

²⁶ *TikTok Statement in Response to Universal Music Group*, TikTok (Jan. 30, 2024), <https://newsroom.tiktok.com/en-us/tiktok-statement-in-response-to-universal-music-group>.

shown to be extremely savvy in using music on its platform to benefit its creators, audience members, and artists. It is more beneficial for UMG's artists' songs to be available to legally use on the app. According to a study collected by a music-analytics company for TikTok, "[s]ongs that trend on TikTok often end up charting on the Billboard 100 or Spotify Viral 50. And 67% of the app's users are more likely to seek out songs on music-streaming services after hearing them on TikTok".²⁷ UMG artists can still be popular on the app through AI generated content and unreleased songs, but fans of these songs won't be able to stream the music anywhere outside of TikTok. The songs that are available to stream, won't have any chance of increasing in popularity if they can't be used and heard on TikTok. It will be interesting to see more and more songs disappear from TikTok and whether UMG will be able to hold out from negotiations for very long.

²⁷ Whateley, *supra* note 24.