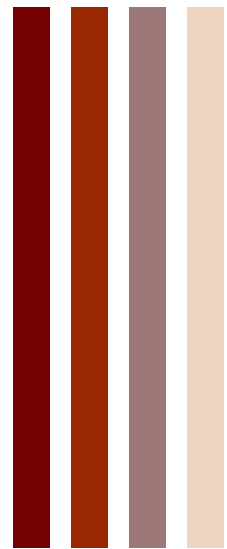


# ***Copyright Ownership in Musical Works:*** Legal Perspective on Compensation for Contributors in the Absence of a written Agreement

## AELEX

LEGAL PRACTITIONERS & ARBITRATORS

 [aelex.com](https://aelex.com)     [@aelexpartners](https://www.linkedin.com/company/aelexpartners)



## INTRODUCTION

Musical works often result from collaborative efforts, with various contributors playing unique roles. These roles may involve composing melodies, writing lyrics, creating beats, or producing rhythms. Contributors such as songwriters, composers, producers, and sound engineers are integral to the final composition and are entitled to compensation for their contributions.

Recently, the entertainment industry has been rife with disputes involving contributors to musical works, especially as it concerns the use of their copyrights and entitlements where their works are exploited. These disagreements mostly stem from the absence of written agreements among copyright holders on the due compensation from the exploitation of their collective efforts. Contributors often resort to legal action, seeking remedies for infringement of their rights, unpaid royalties, or damages when their contributions are exploited without agreed commercial terms.

For instance, recently, award winning gospel artist, Osinachi Joseph Egbu, popularly known as "Sinach", was sued for ₦5 billion by music producer Michael Oluwole over the internationally acclaimed song "Way Maker". Oluwole claimed to be a co-author of the song and sought an equitable share of profits from the exploitation of the record. However, Sinach maintained that she was the sole author, asserting that Oluwole's role was limited to mixing the master recording, for which he had already been compensated.

Furthermore, in 2016, a notable case involved Nigerian music legend, "2face Idibia" (Innocent Idibia) and "Blackface" (Ahmedu Augustine Obiabo). Blackface accused 2face of copyright infringement over the songs "African Queen" and "Let Somebody Love You", alleging ownership of these works. The dispute culminated in a libel suit for ₦50 million filed by 2face which was eventually settled out of court.

The above examples highlight the importance of establishing written agreements, delineating copyright ownership and compensation arrangements in musical works.

It is noteworthy that royalties provide a primary mechanism for compensating contributors, offering periodic payments for the use of their works. However, disputes frequently arise in the absence of written agreements specifying rights and royalty compensation for each contributor. These disputes can result in prolonged legal battles, with contributors asserting rights as joint authors or co-owners.

To prevent disputes, it is crucial to establish written agreements at the outset of a project. These agreements should outline ownership, compensation, and usage rights, ensuring all parties are clear on their entitlements before commercial exploitation begins.

This article examines copyright ownership in musical works, the roles of contributors, and the legal framework governing their rights to compensation.

## COPYRIGHT OWNERSHIP IN MUSICAL WORKS

A single track contains two distinct copyrights: the copyright in the musical composition, which includes the lyrics and melodies, and the copyright in the sound recording, commonly referred to as the master recording. Each type of copyright is distinct and holds specific legal rights and protections. Both musical works and sound recordings are eligible for copyright protection under the Copyright Act 2022 (the "Act").

Under the Act, a musical work is broadly defined as a composition of notes, lyrics, chords, and melodies, irrespective of its musical quality. Musical works are created by songwriters and composers who create the foundational elements of a song,

However, a sound recording is defined as the fixation of a sequence of sounds that can be perceived aurally and reproduced. This category refers to original songs or sounds recorded in formats such as CDs, VCDs, or digital files.

The Act further prescribes the criteria for any musical work or sound recording to qualify for copyright protection, which are;

**Originality:** The work must exhibit sufficient creative effort to give it an original character.

**Fixation:** The work must be fixed in a tangible medium, allowing it to be perceived, reproduced, or communicated in a physical or digital form.

## COPYRIGHT OWNERSHIP IN MUSICAL WORKS

The ownership of musical works and sound recordings grants the copyright owner a range of exclusive rights conferred by the Act, including the rights to:

- Reproduce the work.
- Publish and distribute the work for commercial purposes.

- Perform the work publicly.
- Create derivative works, such as adaptations or audiovisual versions.

The above rights empower the copyright owner to control how their work is used, shared, and monetized, allowing the copyright owner to authorize or restrict the copying of their work in any form, including physical formats like CDs or vinyl and digital formats.

Copyright owner is also empowered by the Act to control when and how their work is performed in public. Whether it's a live concert, a radio broadcast, or a streaming playlist, creators and rights holders can demand for adequate compensation for the exploitation of their music in public.

Copyright owners also have the exclusive authority to create or permit adaptations of their original work. For instance, a song could be synchronized in a film, remixed into a new track, or arranged for an orchestra. These adaptations can add significant value to the original work while keeping its control in the hands of the creator.

In a world where music can be easily shared and reproduced, these rights not only safeguard the creator's artistic vision but also provide the economic incentive necessary for sustaining a vibrant and dynamic music industry.

## COMPENSATION FRAMEWORK FOR CONTRIBUTORS

When a recording contains two or more musical works, each protected by copyright and owned by different copyright holders, the royalties generated from the recording would be divided among the owners as mutually agreed. However, in the absence of such an agreement, the allocation of royalties will be governed by the rules established by the relevant Collective Management Organizations (CMOs) or by regulations made under the Act.

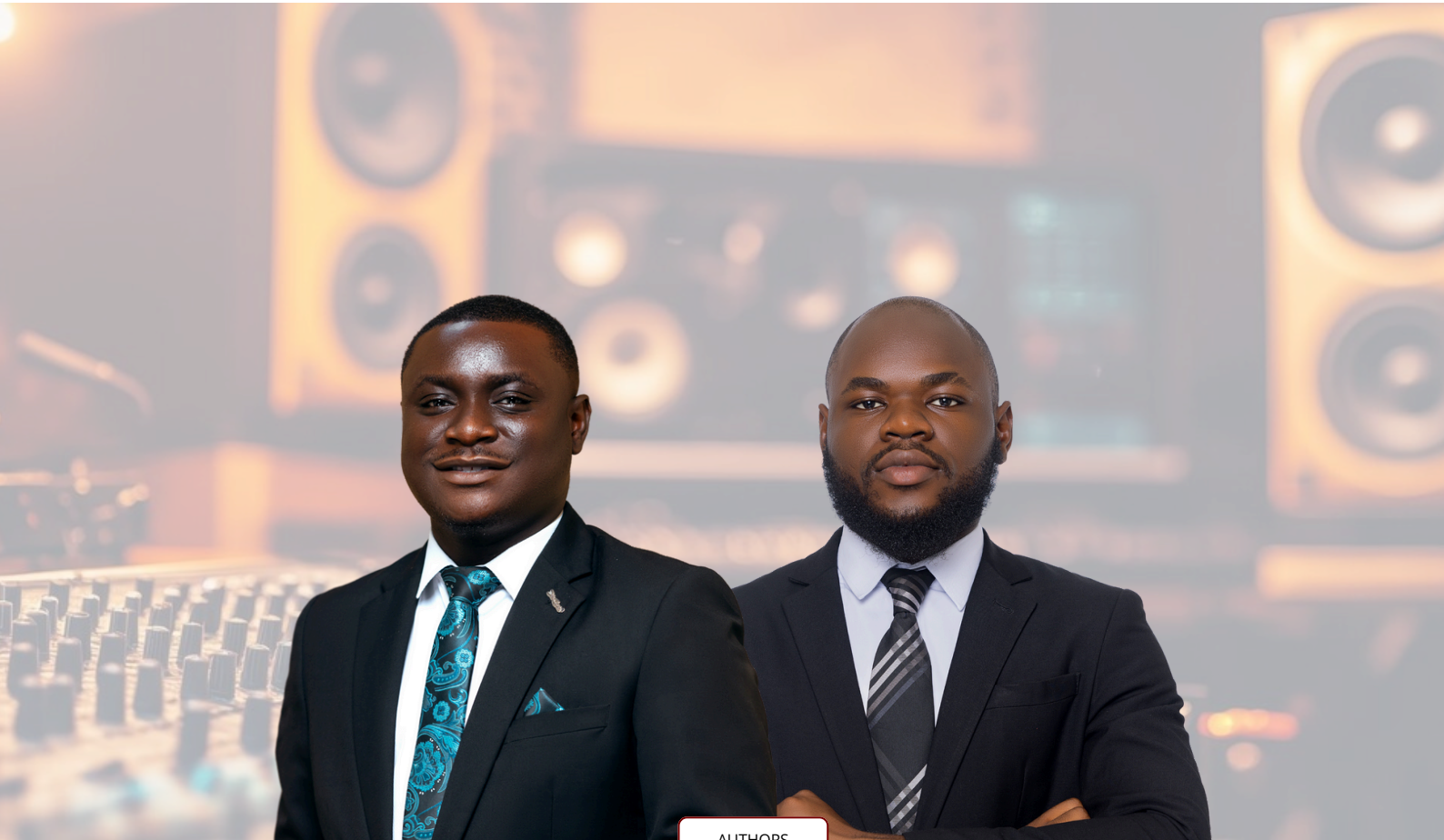
For sound recordings, specifically, where remuneration arises from activities such as public broadcasts or commercial use, the Act recognizes the rights of both the performer (e.g., vocalists, instrumentalists) and copyright owner (e.g., producers, labels). If the parties fail to agree on how to split the remuneration, the Nigerian Copyright Commission steps in to determine an equitable distribution.

This framework is crucial for maintaining fairness and preventing disputes in situations where multiple parties have overlapping interests in a single recording. By providing a legal fallback mechanism, it ensures all contributors are recognized and compensated appropriately for their creative and financial investments.

## CONCLUSION

The collaborative nature of musical works underscores the importance of understanding copyright laws and establishing clear agreements among contributors. The absence of formal agreements often leads to disputes, complicating relationships and delaying compensation.

By proactively addressing copyright ownership and compensation terms, contributors can safeguard their rights, foster positive working relationships, and ensure fair remuneration for their creative efforts. This approach not only reduces legal risks but also aligns with the overarching goals of copyright protection: to recognize and reward intellectual contributions equitably.



AUTHORS

**Adeoluwa Ademola**

SENIOR ASSOCIATE

**Brilliant Oziwo**

ASSOCIATE



LEGAL PRACTITIONERS & ARBITRATORS

## LAGOS, NIGERIA

4th Floor, Marble House  
1, Kingsway Road, Falomo  
Ikoyi, Lagos

**Telephone:** +234(0)201 279336-9

**Facsimile:** (+ 234 1) 2692072; 4617092

**E-mail:** lagos@aelex.com

## ABUJA, NIGERIA

4th Floor, Adamawa Plaza  
1st Avenue, off Shehu Shagari Way,  
Central Business Area,  
FCT Abuja, Nigeria.

**Telephone:** (+234 9) 8704187, 6723568,  
07098808416

**Facsimile:** (+234 9) 5230276

**E-mail:** abuja@aelex.com

## PORT HARCOURT, NIGERIA

2nd Floor, Right Wing UPDC Building 26,  
Aba Road P.O. Box 12636, Port Harcourt  
Rivers State, Nigeria.

**Telephone:** (+234 84) 464514, 464515,  
574628, 574636

**Facsimile:** (+234 84) 464516, 574628

**E-mail:** portharcourt@aelex.com

## ACCRA, GHANA

Suite C, Casa Maria, 28 Angola Road, Kuku  
Hill, Osu GP Address 080-3525 Accra,  
Ghana

**Telephone:** (+233-302) 224828, 224845

**Facsimile:** (+233-302) 224824

**E-mail:** accra@aelex.com