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Frank Ocean will 'swim good,' but is his new independent record legally all good?



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Frank Ocean fans finally got their wish for new music from him the weekend of Aug. 19. Now whether they prefer his record label release “Endless” over his independent release “Blonde” is a matter of opinion. What may not be up for opinion is whether Frank Ocean is now in legal trouble by releasing both albums at one time.

According to [Business Insider](#), because the visual album “Endless” is an exclusive on Apple Music and not for sale, non-Apple subscribers will be out of luck on listening to it when the rest do. Meanwhile Frank Ocean’s independent label Boys Don’t Cry has the opportunity to collect funds for “Blonde.” (“Blonde” didn’t release on Spotify until several weeks later. Spotify is aware and [allegedly](#) is “punishing” artists who choose to have exclusive albums on sites such as TIDAL and Apple.)

On the surface, Frank Ocean has fulfilled his contract with the record company Def Jam and is free to do what he wishes. But at the same time Def Jam and parent company Universal Music Group are fully aware that “Blonde” may be in direct competition with “Endless.” For Frank Ocean fans who are thirsty for all of his content, they may just get both. But Spotify has 40 million subscribers while Apple has 15 million by the end of June so there’s a clear difference in where music listeners are looking for an album — and again, one of them couldn’t be purchased during its initial release even if they wanted to. The literally endless “Endless” long video could only be streamed.

Def Jam could argue that they lost money due to the release of “Blonde,” but financially their contractual amounts were squared away.

[Billboard](#) reports that Def Jam spent approximately \$2 million for recording costs of “Endless” (although they may have thought they were paying for songs from “Blonde”).

Frank Ocean then reportedly paid that amount back to Def Jam, bought his own recordings back and delivered “Endless” instead. The “Boys Don’t Cry” album that the record label thought it was financing then may have become the results of “Blonde” (and the name of his new label).



When a music artist signs a contractual agreement, as long as nothing on the contract stipulates that the record label must approve all songs, the artist can fulfill the record label's agreement by submitting a specified number of albums. But is Frank Ocean still on the hook for allegedly letting the record label think that they got an album that turned out to be something else? Or, is fulfilling the album agreement good enough?

The answer to this question depends on the exact terms of Frank Ocean's Def Jam contract. Def Jam hasn't initiated a lawsuit against Frank Ocean yet, so maybe he fulfilled his obligation to the label.

There are other legal implications Frank Ocean needs to consider as a result of making a power move and establishing his independence.

Who owns the rights to the copyright and trademarks created while the artist was signed to the label? Typically, label contracts stipulate that the label owns all songs and other intellectual property created during the time that the artist was signed to the label. An artist taking songs created when he was signed to a label and releasing them as an independent project is inviting a lawsuit. It appears that Frank and his legal team understood this. This would explain why Frank paid \$2 million to buy back the rights to his recordings.

There are also legal implications associated with Frank naming his independent record

There are also legal implications associated with Frank naming his independent record label Boys Don't Cry. The name of his label was the title of an album Frank was slated to release under Def Jam. In order to operate his business under this name, he most likely had to acquire the trademark rights to "Boys Don't Cry" from Def Jam.



Maybe Frank tried to clue fans in on his intent to leave Def Jam in the lyrics of his hit song "Swim Good":

I'm about to drive in the ocean
 I'ma try to swim from something bigger than me
 Kick off my shoes and swim good, and swim good
 Take off this suit and swim good, and swim

good, good

He is definitely swimming from something bigger than himself by walking away from a major label to go independent.

Have more music law and record label contract questions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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