

### ***Who Should Decide?: Musical Performances by Holograms of Deceased Artists***

In 2012 Snoop Dogg and Dr. Dre performed at the Coachella Valley Music and Arts Festival; however, they were not alone. A hologram of Tupac Shakur performed alongside the other rappers. While the concert seemed shocking at the time, this technology now enables deceased artists to go on full-fledged stadium “tours.” However, using a deceased individual’s “presence” for-profit implicates both legal and ethical issues. The most obvious is copyright law hurdles. The entity putting on the tour must obtain licenses for the use of the musical work and sound recording for every song performed. Further, any choreography, music videos, or photographs used on tour require approval by the copyright owners. Also, the artist’s estate may have a right of publicity claim, a right that prohibits others from using an individual’s name, likeness, and sometimes voice for commercial purposes without prior consent, against the entity for unauthorized performances. However, the claim’s success depends on whether the jurisdiction recognizes a right that extends to the deceased. Therefore, as long as the entity obtains permission from the required parties, it is free to “send” the artist on tour. Despite the legal concerns of this technology, there are also moral questions that arise. While it seems more than plausible that future contract negotiation with artists will involve consenting to holographic performance after their death, currently the parties approving the tour are not the artists themselves. Rather, they are the estate and other copyright owners such as various labels and publishing companies. It seems unsettling that individuals can profit, as stadium tours bring in significant revenue, off a deceased’s “performance” without their consent. While receiving revenue after the death of an author is clearly allowed for sales of books, paintings, or even music, since copyright protection extends seventy years after the author’s death before the work is injected into the public domain, there seems to be something more contentious about profiting

off a performance by a life-like hologram. Further, as technology continues to develop, there will be more creative decisions made with respect to designing the hologram, including clothing, makeup, speeches, and choreography. Therefore, the various copyright owners and estate will have less and less control over the performance. The deceased artist's style and person can be completely different than the living artist's image, possibly altering their legacy in significant ways. Therefore, while copyright law currently is not a significant impediment to these tours, should others really be deciding if and how an artist will perform following their death?

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Summary: This post discusses holographic technology used in musical performances by deceased artists. It explores the legal and ethical issues of the performances.

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#### Sources

1. <https://www.washingtonpost.com/magazine/2019/10/30/dead-musicians-are-taking-stage-again-hologram-form-is-this-kind-encore-we-really-want/>
2. <https://themusicnetwork.com/the-horrible-moral-and-legal-implications-of-hologram-tours/>
3. <https://cardozoaelj.com/2021/01/25/the-king-of-pops-2014-hologram-performance-was-legal-but-this-wasnt-a-green-light-for-all-postmortem-hologram-concerts-a-glimpse-into-the-various-intellectual-property-con/>