

Assignment 5: Sampling and Copyright

Sampling in early Hip-Hop was considered a violation of the regulating rules in copyrights. If you use a sample of another record, you'll have to clear and pay for the use of the recording. The law is not (and cannot be) specific about the threshold for infringement and the precedent is thin, so in the early days Hip-Hop people tried to get away with whatever they could. Here are a few famous cases of Hip-Hop being involved in the copyright law debates:

- [2 Live Crew "Pretty Woman" vs. Roy Orbison "Oh, Pretty Woman"](#)

The case went all the way to the Supreme Court. 2 Live Crew won on the basis that they had used the song with parodic intent (there is a fair use exemption for parody and satire)

- [Biz Markie "Alone Again" vs. Gilbert O'Sullivan for "Alone Again Naturally"](#)

Lawyers for Biz Markie tried the parody defense that had worked for 2 Live Crew, but this time it failed.

- [Jimmy Castor "Hey Leroy" vs. Beastie Boys "Hold It Now, Hit It"](#)

Jimmy Castor, whose music had been liberally sampled in the early days of Hip-Hop sued the Beastie Boys for using a very small fragment of a shouted intro to one of his songs. Perhaps this is the first lawsuit about a sample. The case got settled out of court but had an immediately chilling effect.

- [The Turtles "You Showed Me" vs. De La Soul "Transmitting Live from Mars"](#)

Suit about the use of a sample of a Turtles song behind a skit on 3 Feet High and Rising. The case was settled out of court in favor of the plaintiffs. The album remained out of print until 2023 when a fully cleared and partially remade version was released.

- **Tuff City vs Def Jam**

Tuff City was an independent label that bought up old break records and reissued them, and then tried to sue for infringement. The case failed in part because it was deemed that drum patterns were not "original" enough to meet the threshold for copyright.

Question: Choose one of these cases (or any other case you know) that Hip-Hop songs were sued for copyright violation. Detail on that case by doing your own research and digging into the historical stories. Explain what happened in that case and reflect on it from the following perspectives:

- Who owns music?

- How do they own it?
- How much of it do they own?
- Is there an inherent mismatch between the cultural history reflected in the law and that of Hip-Hop? And does that matter?
- How has enforcement of laws surrounding the ownership of music affected Hip-Hop production?

You can refer to this sampling documentary for some information. It's also a good chance to incorporate what you read in Tricia Rose's paper (first special reading) into your own arguments here for issues concerning cultural practices and community standards. Minimum 250 words in total.

