

The Cost of Creation: Technology, Sampling and Lawsuits in Hip-Hop Music

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Abstract

In music, sampling is the act of taking a portion, or sample, of one sound recording and reusing it as an instrument or a sound recording in a different song. While sampling is a practice that is represented in many genre of music, hip-hop is seen as the biggest example of how sampling can be used, and draws a lot of praise as well as criticism for that fact. The ones in favor of that musical technique argue that it has provided some of the most interesting innovation in popular music. Others claim that sampling is not a creative process but rather a matter of copyright infringement. This argument has been brought to court in 1989 when the American rock band *The Turtles* sued the rap group *De La Soul* for \$1.7 million. This case end up being settled out-of-court for an undisclosed amount of money. Many other lawsuits followed the *De La Soul v.s. Turtles* court case. On top of the legal costs, sampling also requires cutting edge technology that may be very costly. This paper tests the hypothesis that the costs related to sampling have shift from technological costs in the 1980's to legal costs (i.e. costs of clearing the samples or costs related to lawsuits) in the last 20 years. We look at both the use and the technological cost of sampling for 600 songs that made it through the Billboard Hip-Hop/R'n'B charts between 1980 and 2013. We then analyze how the risk and the cost of clearing a sample affect the creative freedom of artists. Indeed, A musician faces the choice of using a sample or not and, if it applies, to clear it or not. These decisions will be a function of the risk of getting sued as well as the cost of clearing the sample. Finally, we discuss how technological progress forces the music industry to rethink the concept of copyright.