

The Past, the Present, and the Future Prospects of Sampling

by

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Introduction

Sampling (a technique of borrowing a snippet of a recorded piece of music and placing it in a song of a different artist) is a staple technique of not just hip hop, but all genres of music. There is no debate that without sampling, the technique of incorporating another artist's music to use as one's own, there would be no hip-hop or rap music. Since the birth of hip hop in the 1970s, sampling has evolved from house parties in the South Bronx to becoming a pivotal part of all hip hop and rap music. The creativity and evolution of sampling, interpolating (quoted or played by other artists who are not the original composers or performers), and reappropriating, influenced many genres of music, spanning all over the world.

Yet, due to the growing number of songs made using sampling, and the accessibility of streaming platforms for artists to upload their songs whenever they want, there is a new problem. Industry lawyers have had increasing work in addressing problems associated with sampling including clearance issues, copyright infringements, and lawsuits for many musicians who choose to sample and upload their music on streaming platforms for profit. This made sampling the center of discussion for producers and artists, asking: "Is it even worth it"? With the risk of sacrificing publishing royalties, excess copyright lawsuits, and negative opinions from other musicians, has sampling become a thing of the past?

This project will explore the importance of sampled music throughout history, and the modern problem of musicians facing harsher and harsher legal backlash for their art.

This paper hypothesizes that beats that do not use samples will be more profitable in the music industry today.

History of Sampling Before Modern Music

Sampling in a literal way did not exist until recorded music emerged. However, the borrowing of musical phrases existed as far as the written music can tell, from the Middle Ages and the Gregorian chant (Chaz Muth.) This technique is more equivalent to what is called today an interpolation in popular music. At the time there were no copyright laws, and this allowed for a free exchange of musical ideas among the composers. There was no sense of absolute ownership over musical material. Exchanging the ideas was a common practice among composers.

One of the most quoted melodies in Classical Western tradition is the melody from the Gregorian chant “Dies Irae,” (Wrath of Gods) which is part of the Requiem (mass for the dead.) It was used by many composers, as a symbol of darkness and death. The most famous example of the use of “Dies Irae” is found in French Romantic composer Hector Berlioz’s *Symphonie Fantastique*. (Dies Irae.) Many other composers used the same melody in their pieces, such as:

- Joseph Haydn – Symphony No. 103, "The Drumroll" (1795)
- Franz Liszt – Totentanz (1849)
- Charles Gounod – Faust opera, act 4 (1859)
- Modest Mussorgsky – Songs and Dances of Death, No. 3 "Trepak" (1875)

- Camille Saint-Saëns – Danse Macabre, Symphony No. 3 (Organ Symphony), Requiem (1878)
- Pyotr Ilyich Tchaikovsky – Manfred Symphony, Orchestral Suite No. 3 (1884)
- Gustav Mahler – Symphony No. 2, movements 1 and 5 (1888–94)
- Johannes Brahms – Six Pieces for Piano, Op. 118, No. 6, Intermezzo in E-flat minor (1893)
- Alexander Glazunov – From the Middle Ages Suite, No. 2 "Scherzo", Op. 79 (1902)

The list continues into the 20th century and beyond.

One of the famous examples of quoted melodies in opera is from Mozart's Don Giovanni. In the last act, while Don Giovanni is awaiting his midnight guest, he orders a band of musicians that are placed on the stage to play music. Here, the musicians are playing quotes from popular pieces at the time not written by Mozart. After each piece is played briefly, Don Giovanni and his servant give comments on each piece, thus letting the public know where the music is coming from. The last quote is actually by Mozart himself, but from a different opera, The Marriage of Figaro. (Chong, Nicholas J.)

Another way of borrowing among composers is the musical form of Theme and Variations. Very often a composer would use a theme by a different composer and write a set of variations based on that borrowed theme (melody.) However, the composer of the theme is usually given credit in the title of the piece. For example, The 33 Variations on a waltz by Anton

Diabelli, Op. 120, by Ludwig van Beethoven, a composition commonly known as Beethoven's Diabelli Variations. (Diabelli Variations.)

Origins and Timeline of Hip-Hop

Hip hop is often thought of as a genre of music, but in actuality, it is a movement, which started as a subculture and is one of the most influential forces in pop culture today. Beginning in the '70s, hip hop culture revolved around four things: DJ-ing, Rapping, Breakdancing, and Graffiti. All of these movements are intertwined with each other and were all a consequence of economic decline, and the harsh realities of living impoverished in New York City (Swanson, Abbie Fentress.) The rest of the inner cities in the US, and eventually the world, adopted and repurposed their takes on hip-hop culture to represent their different perspectives and struggles. It is important to give a brief overview of the four components of hip hop, because, as previously stated, they are all products of the same reality.

The DJ (short for Disc Jockey) is the first element of hip hop to emerge. The phrase, coined by Walter Winchell, an American broadcaster, talked about Martin Block. Block would play music to imitate the ambiance of a ballroom at a time when only live music was played on the radio. A man named Jimmy Savile was the first person to use twin turntables in 1947 (Swanson, Abbie Fentress.) But in 1973, DJ Kool Herc created turntablism, which would go on to spark the creation of extended breaks, which served as the foundation for producing, breakdancing, and rap. The breaks, or loops, would be repeated by the DJ, and transitioned between other records seamlessly. Eventually, DJs learned to manipulate these records in countless ways. One technique is taking a drum break from one record and laying it under an

instrumental without drums, creating an entirely different record. Another technique is changing the tempo and pitch of one record to match the next record or a drum break from another song. The most impressive innovation in sampling, however, is the technique of cutting a record up into multiple sections and rearranging the sections to create a different song. This is called sample chopping, and it continues to be found in music today (Sherbourne, Simon.)

Breakdancing and rap both arose in the early 70s as an extension of the DJ. The music that came from DJs like Kool Herc, Afrika Bambaataa, and Grandmaster Flash paved the way to a whole new world of self-expression. Breakdancing (also referred to as B Boying or breaking) originated in the Bronx and was inspired by James Brown along with the breaks that DJs had started creating. Kung Fu movies are credited partially as one of the influences of early breaking.

There are many theories on where rapping truly originated, and certainly, it wasn't in the 1970s. The griot tradition dates back centuries to West Africa and consisted of rhythmic, non-melodic vocalizing. Additionally, Jazz and Blues vocalists in the early 1900s would occasionally make songs where the way of performing was no different than what we would consider rap today. Poets like Gil Scott Heron toed the line between spoken word poetry and hip-hop music. Even Blondie had a song in 1981 where she raps her verse; however, there were key elements that made the song represent hip hop culture. So although the vocal style of rap might not have been created in the 70s, the final product that came from the integration of the DJ and the emcee, was unlike anything that came before it and transformed an obscure technique into one of the principal forms of expression in music today.

The graffiti movement started slightly earlier than the Kool Herc era. In the early 60s, taki183 would spray paint his name on a subway car, marking the beginning of the craze that took over the world shortly after (Birzin, Dr. Edward.) People often refer to hieroglyphics as the

first graffiti in history. Like rap, it may be true that the practice existed before the 20th century, however, the context of graffiti in hip hop gave a new meaning to the art form, similarly to hip hop music. All of these elements of hip hop share one underlying theme: resistance. The hopeless conditions of the low-income communities in the 1970s were evidence of the ripple effects of the centuries of African American oppression preceding this moment. New York City (especially the Bronx) was littered with abandoned buildings and plagued with poverty, drugs, and crime. “The Bronx is burning” became a phrase to describe this period, as property values reached all-time lows, crime reached all-time highs, and a large portion of what was left of the Bronx was literally on fire. The Government neglect and a large-scale abandonment of the borough led to the worst poverty rates the city had ever seen. The disparity between white America and the poor inner cities had grown so large, and the apathy of the privileged had become so apparent, that the youth became a lost generation, with a story to tell.

The Bronx Is Burning

To truly grasp the reality of Bronx residents in the 70’s requires looking back at the history that led to the violent climax of the borough. It is a culmination of racism that was a continuing after effect of slavery in the south which caused ripples of injustice that were still haunting its victims over a century later.

The Bronx was once a predominantly white borough. A 1950 census indicates that “approximately 1.3 million people, over 90% of the population, identified as white (Megan Roby, Dynamics of White Flight).” Around that time, the second wave of the Great Migration was taking place. The Great Migration refers to the exodus of African Americans from the south to mostly Northern cities. The first wave happened after World War I and the second wave after

World War II. Both of these wars led to labor shortages which opened up job opportunities for minorities. However, in both periods of migration “The “push” factors for the exodus were poor economic conditions in the South—exacerbated by the limitations of sharecropping, farm failures, and ongoing racial oppression in the form of Jim Crow Laws (*Patricia Bauer, Britannica*).” Many African Americans moved to New York, and even in the city, people were relocating from Harlem to the Bronx because of urban renewal which was “the tearing down of “slums” in Manhattan to replace it with middle-class housing and civic centers (Bronx River Alliance).” By 1980, the white population had decreased to 554,00 (Megan Roby, Dynamics of White Flight) which reflected the “white flight” to suburbia. Government resources shifted to affordable housing for white people leaving the inner cities, and places like the Bronx were abandoned and left to fall into crippling poverty.

The landlords’ response to the decline in property value was to hire arsonists to set fire to their own properties, in order to collect the insurance and cut their losses. This was a devious plan that was done in collusion with the insurance companies. These white landlords did not have to fix the buildings if they were destroyed, so it was worth it for them financially, even if it meant burning the homes that black people were living in. “For example, in 1980, Lloyd’s of London (a home insurance company) was paid \$45 million dollars. This is the same as \$250 million dollars in 2018 (Bronx River Alliance).”

It is important to follow the timeline from slavery to life in the South Bronx over 100 years later, because Hip Hop was both a result of oppression, and a constant reflection of it as an art form. “And behold: the places where these things happened are the same ones that, during the Bronx’s awful decade of fires, were most harmed. It was from the ashes the fires left—the vacant lots and rubble and parties thrown with equipment won during riots and blackouts—that

hip-hop's phoenix rose (Joshua Jelly-Schapiro).” The first breath of the movement came from the devastation of the borough, and was an answer to generations of oppression. The four pillars of hip hop are the mediums through which this generation painted the picture of the dark realities of the times and the resilience of the people. Hip hop gave millions of people in these impoverished communities a voice, a sense of hope, and a way out of the struggle.

There is an endless discussion to be had about the sociological shifts that come from hip hop. Numerous musical shifts resulted from the creation of breaks as well. But of all the contributions that come from the culture of hip hop, I want to focus on the phenomenon of sampling, which, without a doubt, reshaped the landscape of music forever, and opened up Pandora's box of both endless possibilities and endless problems in the industry.

Beginning of Sampling in Digital Music

The art of sampling has evolved considerably since the first break loops in the '70s. It began with Kool Herc who used two turntables with two identical records, switching between the two records to keep the break going. That simple technique evolved into reversing, scratching, and cutting, and was pioneered by Grandmaster Flash. By 1988, the Music Production Center (MPC) was introduced to the world, which served as a new instrument in music. With the MPC, producers could chop samples and replay them at different pitches and speeds, leading to the golden age of hip hop. Legends such as Madlib, J Dilla, Pete Rock, DJ Premier, and many more explored the boundaries of what could be done with this new format, and it was soon discovered that the possibilities were limitless. Other new technology such as the Roland TR-808 drum machine and the Linn 9000 helped shape the emerging sound as well (Beaumont-Thomas, Ben.)

One of the main contributing factors to the popularity of sampling in the golden age of hip hop was the fact that there were no real solid copyright laws that pertained to sampling. As a result, throughout the 80s, any song was a fair game to be repurposed and turned into a new record. Multi-million dollar acts were touring using elements of songs that were already created and released. “Rapper’s Delight” by the Sugarhill Gang is commonly referred to as the first rap song to use a sample. The record was released in 1979 and sampled “Good Times” by Chic. In 1985, La La the Leader of the Pack sampled In-A-Gadda-Del-Vida by Iron Butterfly, a song released in 1968. Public Enemy had a huge impact in the late ’80s with their aggressive, non-apologetic, and, most notably political lyrics. They famously sampled James Brown’s drum break in “Funky Drummer” for their 1989 classic “Fight the Power,” which set the tone for the sample styles to come in the next decade (Hein, Ethan.) The 90s ushered in a new era of hip hop in all of its forms. Over decades, graffiti writers went from doing crude hand styles and simple block letters to extremely detailed pieces with advanced spray paint techniques.

Breakdancing became integrated into mainstream culture with dance videos, dance classes, and break dancers being featured in music videos. Rap lyrically evolved from simple rhyme schemes to multi-syllable patterns with complex flow structures. The topics also became a lot deeper, going from what sounded like nursery rhymes to aggressive raw picture painting which sounded like nothing before it. In 1994, Nas dropped “Illmatic,” which changed the standard of flows and lyricism forever. One of the standout elements of “Illmatic” is the production, which is a sure sign of the future of sampling. DJ Premier, Clark Kent, Large Professor, Pete Rock, Q Tip, and many other pioneers were chopping samples that were gritty and dark. Many contained completely different parts of songs cut together to make a choppy,

chaotic but controlled new sound. These features were all in contrast to the bright, disco-inspired sounds being used for most of the 80s by acts like Run DMC and LL Cool J.

The music that followed showed the world that hip hop had no box it could be put in. In Houston and Memphis, the DJs were slowing and pitching down samples to create a trippy sound completely different from the New York sound but maintaining the same principles. In California, producers like Dr. Dre were sampling as well, but using very different songs to sample, such as his song with 2pac Roger Troutman, “California Love” or his flip of “I Wana Do Somethin Freaky To Ya” in 1992 for “Aint Nothin But A G Thang”. The ’90s brought on countless acts such as Jay-Z, Notorious BIG, Outkast, and Big L. They also introduced us to the producers who would bring sampling to new heights.

Clearing Samples

However, with all of the great things that come with sampling, there is a catch. Artists from decades prior were noticing their music getting repurposed for these rap songs that were making millions of dollars, and they weren’t happy about it. Some wanted the music taken off the shelves, but all of them wanted a cut of the profits. As a result, in the early ’90s, several copyright enforcement laws were passed, and the days of sampling for free were over.

The evolution of sampling is not just a transition of sounds, but also techniques, and those two elements influence each other with each new advancement or discovery. There are many examples of this when you look at the timeline of popular sampling techniques, and the

change of musical style that came with those new techniques. As mentioned before, Kool Hurk revolutionized DJ-ing by looping drum breaks to extend them. The end product was completely new at the time, however, compared to today's beats, it could be viewed as extremely minimalist and elementary. There is only so much that can be done on the spot with turntables, and because of that, the music was just a repeating loop.

Once the MPC made its way into the hands of hip hop producers in the late 80s, the entire sound of hip hop changed. The Akai MPC is a drum machine and also a sampler, which means you can load up any audio clips into it, edit and manipulate them, and replay them in a different sequence. The producer can load up the recorded pieces of audio into the MPC and speed them up, slow them down, reverse them and most importantly, play the chopped samples by pressing the buttons that contain the sounds loaded up by the producer. For creatives, this opened a door to limitless possibilities. Breaking out of the box of simple loops, and seeing the potential of what the MPC could do, immediately led to an explosion of innovations and styles in hip hop which would later go on to be classified as the golden era of the genre.

One of the most historical figures in hip hop is the late J Dilla, who is regarded as one of the greatest sampling producers to ever live. Dilla was born in Detroit and worked with a large range of artists from singers like Erykah Badu to rappers like Common and The Pharcyde. No matter who he was working with, the records had a fluid and common sound, which was crafted by Dilla. The way he separated himself from other producers was exposed in the details of the choices he made creatively. He blended songs from different genres and cultures and programmed purposely off-beat drums to create lucid beats with unique bounces. "His ideas on the power of precisely imperfect beats and the ways that looseness generates a certain swing have informed

contemporary music ever since.” (LA Times) Dilla died of a rare blood disease in 2006, at the age of 32. He left behind not only an unmatched legacy but a blueprint for a style of music that is imitated and appreciated to this day. It is easy to see the influences of Dilla in Kendrick Lamar's production, and Lo Fi production as a whole. The way he used filtering and reverb to create a dreamy element in the melody, is used often in modern production.

The more sophisticated the art of sampling became, the more producers developed unwritten etiquettes which helped shape the different styles for different eras. In the beginning, samples were easily recognizable, and the DJs were not trying to hide that fact. However, as the phenomenon progressed, producers challenged themselves more and more. One way to do it is by finding extremely short audio clips from unexpected parts of a sample, and replaying them in a way that gives the record a completely different feel, essentially transforming it from one genre (usually soul or funk in the early stages) to hip hop. Someone who was a master at this was DJ Premier. He would often find small moments of bridges or endings of songs, and make entirely new records with them. One example would be the Gangstarr record, “Work” which famously samples “Devil in the Dark” by the Manhattans. The original sample is a typically slow, soothing 70’s for most of the song. However, two minutes and twenty-three seconds into the record, the instrumental comes to a halt, and Gerald Alston sings loudly “Devil, Devil” followed by a quick change in the piano portion. This moment had a completely different melody and feeling than the rest of the record, almost as if it were from another song. DJ Premier took that four seconds of music, chopped it up, and created an instrumental which was completely unlike the original. Another artist well known for his chops is Kanye West. He would often take multiple components of one or more records and combine them into a one to four bar loop. An example of

this is on Common's 2005 album "Be", arguably one of West's greatest showcases of production. On the song "Faithful" he sampled the DJ Rogers song "Faithful to the End" at the 3-second mark, the one-minute mark, and the 1:45 mark. He took those three pieces of the song to create a hook, turnaround, and verse. Another song on the same album called "The Corner" used samples from two different records. The main body of the loop contained a drum loop and vocal sample from "What it is?" By the Temptations, and the turnaround at the end of the 4 bar loop was a sample from The Temprees called "You Make the Sunshine". This was all before YouTube was available, so producers had to listen to hours of music to find these magic moments, which further increased the respect for sampling. Many of the classic hip hop records were made from samples found on vinyl, which lead to the term "digging in the crates" which referred to digging through hundreds of crates of old records to find the perfect sample.

One of the most impressive techniques that emerged during the rise of sampling was manipulating the vocals of a sample to another meaning or for another purpose than the original song. Alchemist does this with "By Your Side", a 2005 Jadakiss song in which he puts the phrase "by you side" from the original sample at the beginning of the 4 bar loop, and Jadakiss finishes the line. This would be a very popular technique in the early 2000s used frequently by artists like the Diplomats and Fabolous. For one of the most impressive examples of this technique, we would have to again refer to J Dilla. In 1998 he sampled a song made only 3 years prior, called "Towa Tei" by Technova and Bebel Gilberto, a Japanese DJ and Brazilian pop singer, respectively. The part of the record Dilla sampled was Gilberto singing in Portuguese, which would be the intro for the iconic Tribe Called Quest song, "Find A Way". What was genius was that Phife Dawg and Dilla matched the cadence of Phife's hook to the cadence of Gilberto. Dilla

chopped the sample in a way that matched the groove of Phife's vocals (an extremely difficult feat) and built the record from there. It is a commonly referenced sample, as it combined multiple advanced techniques: finding an extremely rare foreign sample and making it sound like a hip hop record, manipulating vocals to serve as a part of the record, and taking different elements of the original sample to make the beat.

Although there are still purists who make music off of MPCs and vinyl, the rise of electronic music and the evolution of DAWs (digital audio workspace) has vastly changed the landscape of sampling. EDM DJs in a way took sampling and brought back the original dynamic of hip hop, where the DJ was the artist playing beats, and there was no rapper. However, the music is vastly different, as is the culture around it. Still, the fundamentals of taking records and reappropriating them into new ones were there.

The same fundamentals exist in hip-hop production, although the technique is very different. Most samples are downloaded online, usually through YouTube, and loaded and chopped up in the DAW. These programs have made it extremely easy to chop and manipulate samples, saving producers hours when it comes to finding and altering the right sounds. There is also the ability to easily quantize or automate notes and grooves with the click of a button, which saves new producers years when it comes to perfecting rhythm, as older producers had to do. It is not all bad though. With the progress of technology comes the progress of sound, and with the new tools at their disposal, producers can make harder hitting, cleaner mixed beats at a faster output, which arguably is a good change. Some would also argue, however, that with the takeover of quantized "trap beats", hip hop has lost some of its "perfect imperfections," and as a

result, some of its soul. Producers like the Alchemist and Daringer still keep the golden age era sound alive today, and it will be an influential and important style for years to come.

By the early 2010s, sampling had gone from being the primary source of beat-making to taking a back seat to synthesizers. There were a few factors that led to this shift. One was the rise of EDM music. Trap music was popularized not just in hip hop, but also by the electronic scene, although the former only took the musical elements, not the cultural. Still, this contributed to the mainstreaming of the hard 808s and stuttered hi hat patterns. Part of why the music was becoming popular was not only because the fans enjoyed it, but also because it was finally easy to make beats with synthesizers that didn't sound extremely antiquated or limited to a few sounds. The rise of Ableton and the many VSTs (virtual studio technology) that were created at the same time made creating beats from scratch very possible, even for amateur producers.

Another huge advantage was the availability of 808s and readily programmable drums. Older generations of producers had to find drum loops, slice out the sounds they wanted, or record their drum sounds. It was extremely difficult to find hard-hitting drums at the time, and by 2010, there were thousands of drum sounds available for download online. This changed the game as far as the level of entry to make radio-ready production.

The final factor, most relevant to the topic at hand, was the declining art form of sampling. In the beginning, as previously stated, most songs were being put out without being cleared. Since it was so new, there were no laws, so no one knew quite how the breakdown of payment worked out. By the early 2000s, there were strict copyright laws, and many obstacles to overcome to put out music with samples in it. First off, "you needed two different permissions to

legally use a sample from an existing recording in your music (CD Baby).” One is the license to the master which is owned by the label (unless the artist is independent) and the other is for the license for underlying composition, which is owned by the songwriter/publisher. The master is the official recording of the song, while the underlying composition is the actual lyrics and music in the song. Both of these have to be cleared, which means the label and the publisher have to agree to the release. They can also set the terms, as far as their fee, publishing, and how it is used. If the artists cannot agree to those terms there is no way for them to legally use the sample. Even if only one moment of the sample is used it must be cleared by all parties involved.

Controversies in Sampling

To add to the issue of sampling, the rise of downloading sites like Napster and LimeWire made it possible for anyone to download the music they wanted for free on the internet. This was disastrous for anyone trying to profit from music. At the time, CDs were expensive, and even if you only wanted to listen to one song of an album, you had to purchase it in full. This made the temptation for free music unavoidable for consumers. “It was an industry-destroying genie, and Napster was the spell that released it from the bottle forever.” (BBC). When you combine this financial hit with the already heavy burden of getting licenses for masters and underlying compositions, the pros of sampling simply do not outweigh the cons. Producers made the sensible choice of cranking out original beats using VSTs, and with the realization that these

records could be released at any time with no clearance issues, everyone began to flock to the new wave of electronic and trap music.

Lawsuits

The decline of sampling left a void in music that electronic music could not fill. The experience of nostalgia and faint familiarity was a huge part of the allure of sampled music. As a result, interpolations became very popular in the mid to late 2010s. Interpolating a song means replaying, or reproducing one or more key elements from the sample, but not using the actual sample in your record. This is beneficial to producers because “if you are just doing an interpolation of a song, you only need to get permission from the owner of the underlying composition since you are just featuring the underlying composition — not the original recording — in your new song (Songtrust).” This makes it much easier to clear because the label does not need to give permission, just the publisher. The most famous recent example of this is Juice Wrld’s hit song “Lucid Dreams.” In this record the producer, Nick Mira interpolated the guitar line from “Shape of My Heart” by Sting. In this instance, they did not need a license to use the master, however, they did need permission to use the underlying composition (the guitar melody) which they did not get because they were young, unsigned artists who did not know the laws of sampling. As a result, Sting took ownership of 85% of Juice Wrld’s song, which had earned millions of dollars at that point.

A contemporary-classical composer, Milos Raickovich wrote a piece for solo piano titled "Happy Birthday, with Permutations on C-A-G-E." The piece was a part of a project to celebrate the 65th birthday of his friend, a musicologist, who was a friend and admirer of the composer John Cage. The piece starts with the musical quote of the popular melody "Happy Birthday to You," although it is harmonized with chords different from the original. The composer, Raickovich, had sent this piece to the Library of Congress, Office of Copyrights to obtain a copyright for this musical piece. However, he has received the following answer in this email below dated 10-3-2011:

From: Copyright Office <cop-ad@loc.gov>

To: "mraickovich@yahoo.com" <mraickovich@yahoo.com>

Sent: Monday, October 3, 2011, 08:47:52 AM EDT

Subject: 1-654453931 Where is my love? (song, and 8 other works)

Dear Milos Raickovich:

We have delayed registration because of questions regarding the extent and publication of these copyright claims.

The application includes a claim in "words and music" for a revised version of "Happy Birthday." However, it appears that the original song is still under copyright protection. One of the exclusive rights of a copyright owner is to "prepare derivative works based on the work" or authorize others to do so. Therefore, if you have written permission from the current copyright

owner to prepare a revised version and claim copyright in your new arrangement, please let us know and we will reconsider registration. However, if you do not have written permission, please authorize us to remove any reference to "Happy Birthday, with Permutations on C-A-G-E" from the registration record.

In addition, the application states that all of these songs are unpublished. Generally, publication means that copies or phonorecords of the work have been sold or distributed to the public. (For the complete definition of publication, please refer to Circular 1 at <http://www.copyright.gov/circs/circ01.pdf>.) If these works have never been published, either by a published score or CD, please confirm. However, if any of these works have been published, please provide more information regarding their publication, and we will advise you further.

Please note that if we do not receive a response to this message within 20 days, we will close this case without processing your registration or notifying you further, and forward your deposit copy(ies) under the provisions of the current copyright law. The fee is not refundable. If you re-apply for registration after the case is closed, you must send a new application, copy, and fee. The effective date of registration will be based on the new submission.

Sincerely,

Joy

Registration Specialist

Performing Arts Division

When replying to this email, please include the following thread id (entire line) within the body of your response to expedite routing to the correct office.

[THREAD ID:1-B1X1O2]

This example shows how a composer was unable to use a popular song and quote only a part of it in his original composition without the obligation to contact the owner of the copyright (Warner Chappell Music) and pay a licensing fee. This song was a controversial case in the music industry because it is one of the most frequently sung songs around the world.

The music for "Happy Birthday to You" was created in 1893 titled "Good Morning to All." This early version was not copyrighted. Several later versions with new text ("Happy Birthday to You") were copyrighted and the ownership changed several times. This produced a great controversy subject to discussions, a documentary film, and several lawsuits. The song finally came into the public domain in 2015 after the copyright claim was declared invalid. The owner, Warner Chappell Music, had to return \$14 million in licensing fees to the musicians who used the song previously.

Conclusion

When one looks at the billboard charts, especially in the hip hop categories, only a small percentage of records contain samples, and even a smaller percentage has the sample at the forefront of the beat, like in past generations. The rise of legitimate streaming platforms such as Apple Music and Spotify has pumped a lot of revenue back into the music industry, which has

certainly caused a small revival in sampling as a result of recording budgets growing, and labels prospering. Rappers like J Cole and Kendrick Lamar keep the original hip hop sound relevant for young listeners, and new genres like Detroit and New York Drill music experiment with samples in new ways. However, the harsh realities of sample clearing are still the same, making it less attractive to up-and-coming producers, while the technology for VSTs and synthesized production become more and more accessible. The result has been somewhat of a hybrid of techniques and styles which creates a very large landscape of music with countless sub-genres. There are many benefits to the popularization of VSTs such as complete ownership of music, as well as another door to countless creative opportunities.

The old ways of sampling are not lost, they are just accompanied by many other styles of making music and producing. Although it may not be the most profitable lane anymore, it plays a crucial part in the journey of not just hip hop, but all music today.

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