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Article

**NO BITIN' ALLOWED: A HIP-HOP COPYING PARADIGM FOR ALL OF US**

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I.	History and Purpose of Copyright Act's Regulation of Copying	119
II.	Impact of Technology	126
	A. The Act of Copying and Attitudes Toward Copying	126
	B. Suggestions from the Literature for Bridging the Gap	127
III.	Potential Influence of Norms-Based Approaches to Regulation of Copying	129
IV.	The Hip-Hop Imitation Paradigm	131
	A. Structure	131
	1. Biting	131
	2. Beat Jacking	133
	3. Ghosting	135
	4. Quoting	136
	5. Sampling	139
	B. The Trademark Connection	140
	C. The Authors' Rights Connection	142
	D. The New Style - What the Future of Copyright Could Look Like	143
V.	Conclusion	143
VI.	Appendix A	145
VII.	Appendix B	157
VIII.	Appendix C	163

## \*116 Introduction

*I'm not a biter, I'm a writer for myself and others.*

*I say a B.I.G. verse, I'm only biggin' up my brother<sup>1</sup>*

It is long past time to reform the Copyright Act. The law of copyright in the United States is at one of its periodic inflection points. In the past, major technological change and major shifts in the way copyrightable works were used have rightly led to major changes in the law. The invention of the printing press prompted the first codification of copyright. The popularity of the player piano contributed to a reevaluation of how musical works should be protected.<sup>2</sup> The dawn of the computer age led to an explicit expansion of copyrightable subject matter to include computer programs.<sup>3</sup> These are but a few examples of past inflection points; the current one demands a similar level of change. Today, owners of copyright face a world where digital technology has made it easy and cheap to reproduce, adapt, distribute, display, or perform the works of another. Equally important, a generation of users has grown up expecting to be able to freely usurp the traditional exclusive rights of the copyright owner. If the declining sales and audiences in the music, newspaper, and broadcast television industries tell us anything, it is that old legal paradigms regarding copying, and the business models built around them, are in jeopardy.

What level and type of reform is appropriate? With what do we replace the old approach to copying? The short answer is: something less like the rigid blanket ban on copying currently in place, and something more like a flexible approach that distinguishes acceptable, or even laudable, imitation of another's expression from undesirable copying. Scholars have explored norms-based alternatives to intellectual property law in policing copying in various creative and innovative communities, such as chefs,<sup>4</sup> comedians,<sup>5</sup> research scientists,<sup>6</sup> jam bands,<sup>7</sup> and magicians.<sup>8</sup> \*117 But, norms-based communities can give us more than examples of life without intellectual property law. At least one creative community has developed norms for policing and distinguishing good copying from bad, copying that promotes "progress" from copying that inhibits it. Hip-hop artists have traditionally employed a norms-based approach to imitation that points to a possible framework for regulating copying under the Copyright Act of the future. In hip-hop, the types of copying, and the consequences of each type, are varied and nuanced. The cultural implications of imitating in the "wrong" way are such that the formal legal consequences are nearly irrelevant (at least within the community). Even though hip-hop music has become popular music, and popular music is largely owned commercially and protected with copyright law, instances of one hip-hop artist (not record company) suing another over copying are rare. This phenomenon suggests a robustness with respect to hip-hop's internal imitation paradigm that warrants further examination for general use.

Hip-hop recognizes at least eight different ways in which an artist can imitate an existing piece of expression (three types of wholesale appropriation, three types of lyrical quoting, and two types of musical sampling). The most egregious, and the one that can lead to sanctions from the hip-hop community, is biting, the appropriation of another's lyrics and passing off of such lyrics as one's own without the authorization of the primary lyricist. The next type of imitation, beat jacking, is the non-vocal equivalent of biting, the appropriation of another's "beat," the musical and rhythmic core of a hip-hop song. Beats are often composed from pre-existing recorded sounds, but the particular style with which such sounds are combined help create the appeal of a particular song and build the reputation of the DJ or producer who created the beat. Sanctions for beat jacking are roughly similar to those for biting. A third type of wholesale imitation of another's expression is what I will call "ghosting," being ghost-written for. Ghosting can be characterized as a kind of "authorized" biting. The imitator is using someone else's expression, but is remunerating that person in exchange for consent to imitate. Ghosting has not traditionally been a favored practice, but it is also not fatal to an artist's career. Although the community places a premium on having the ability to write one's own lyrics, occasional ghosting may be acceptable under certain circumstances.

There are three recognized ways in which an artist may "quote" another artist, that is, imitate her lyrics without reaching the level of wholesale copying represented by biting and ghosting. One artist may quote the other in the "battle" context, twisting the adversary's words or turning them against him in order to belittle him \*118 and trumpet the quoter's superiority. An artist may also quote another out of respect, with a short quote serving as a nod or homage to the other's skill. The Jay-Z quote above, which explicitly announces Jay-Z's intention to pay homage to, or "big up," the Notorious B.I.G., precedes a line in which Jay-Z quotes verbatim a very popular line from a Notorious B.I.G. song.<sup>9</sup> Respectful quoting often occurs across generations, with a later generation artist quoting one from an older school. A third type of quoting is quoting for the purpose of riffing, or demonstrating the quoter's lyrical agility and acuity. Like a jazz musician, a hip-hop artist may use a quote from another as a springboard for her own creativity. The quote usually is a well-known, even iconic one, so that the audience clearly understands that the quoter is quoting and not biting. All three types of quoting are acceptable in the hip-hop

community, and an acceptable quantity of quoting can range from one line to many bars of the quoted song.<sup>10</sup>

The final two types of imitation in hip-hop involve the creation of beats. Sampling, which has been a part of hip-hop from the beginning and is actionable under the Copyright Act if done without authorization, is a prized skill. I include in the definition of “sampling” for my purposes here all of the various DJ/producer skills that go along with sampling (e.g., looping, cutting, mixing). The creativity involved in borrowing bits of sound from other sources and combining them into a new whole that forms the core of the traditional hip-hop song is among the highest forms of creativity recognized by the culture.<sup>11</sup> Therefore, the copying that is incidental to the creation of the beat is readily accepted. An artist may sample the expression of others in creating a beat (often paying homage in the choice of whom and how much to sample), or he may sample his own prior expression in order to demonstrate just how remarkable his prior expression is.

Whether the community is likely to accept or reject a particular instance of imitation as legitimate can depend on a series of implicit questions that give insight into the overall approach to copying in hip-hop:

- Is there consent from the source?
  
- Is the source identified or easily identifiable? Is there an appearance of passing off?
  
- Is the imitation used as a springboard for the imitator’s own creativity?
  
- \*119 • Does the imitation enhance branding or accrue good will for the source?
  
- Does the imitation contribute to an overall conversation in the community/culture?

The use of some trademark terms of art in foregoing questions is deliberate. It is my contention that the hip-hop community’s view of imitation is at least partly grounded in notions of brand identity, brand building, and brand enhancement. Of course, honoring the creative enterprise is important as well, but ideas of author’s rights and unfair competition are intertwined in judging imitation. This Article concludes by examining the extent to which the intersection of trademark and copyright, as viewed through the prism of hip-hop’s copying norms, provides insight into the future of the Copyright Act.

## I. History and Purpose of Copyright Act’s Regulation of Copying

From the nation’s inception, Congress has had the authority to promote the progress of creative enterprise by “securing for limited times to authors . . . the exclusive right to their respective writings.”<sup>12</sup> Eschewing a natural law or moral rights underpinning for intellectual property protection, the United States has long built the case for copyright (and patent) law on a utilitarian foundation. Authors should receive a limited monopoly on the economic exploitation of their work, in order to encourage them to engage in creative pursuits. Such engagement ultimately enriches the country by facilitating the production and dissemination of knowledge. The system seeks to achieve optimal dissemination by having works fall into the public domain at the end of their respective “limited times.”<sup>13</sup>

Congress revised the federal copyright laws numerous times over two centuries, including a number of revisions tied to eligibility of and scope of protection for musical works. The first Copyright Act in 1790, “[an act] for the encouragement of learning,” provided protection for authors and proprietors of published maps, charts, and books.<sup>14</sup> The Act prohibited printing, reprinting, publishing, or importing copies of a protected work.<sup>15</sup> In 1831, Congress expanded the Act’s purview to include musical compositions and granted authors the “sole right and liberty of printing, reprinting, publishing, and vending” a copyrighted work, or a “print, \*120 cut, or engraving” of such work.<sup>16</sup> By its fifty-fourth session, in 1897, Congress was ready to deem unauthorized public performance of a musical composition infringing, and provided for both civil and criminal penalties.<sup>17</sup>

In 1909, Congress completed a comprehensive overhaul of the Copyright Act, including the statute’s provisions relating to musical works. The 1909 Act grants the owner of copyright the exclusive right to “print, reprint, publish, copy, and vend the copyrighted work.”<sup>18</sup> Musical works carry with them additional exclusive rights, namely the right to arrange or adapt the work, to perform it publicly for profit, and to arrange or set the composition’s melody for the purpose of public performance.<sup>19</sup> The 1909 Act also grants the author of a musical composition the right to collect a statutory royalty on mechanical reproduction of the composition by others subsequent to the author’s first mechanical reproduction of the

composition.<sup>20</sup>

The most recent comprehensive revision of the copyright statute, in 1976, increased the scope of protection for musical works further, providing the potential for exclusive rights in two separate types of work for each piece of music. A “musical work,” or traditional music composition, is protected against unauthorized reproduction, adaptation, public distribution, public performance, or public display.<sup>21</sup> A sound recording, a particular fixation of a particular musical work, is protected separately from the underlying musical work, and its author has the exclusive right to reproduce, adapt, distribute, or perform the work via digital transmission.<sup>22</sup>

For our purposes, several unifying threads of copyright doctrine over its first 220 years of development are relevant. The first is the primacy of the physical copy as the organizing principle of copyright law. Unsurprisingly in a pre-digital world, the physical copy was the focus of the Copyright Act’s framework for its entire history. Embodiment of the subject work in a physical copy has long been a prerequisite for federal protection. The current statute uses the phrase “fixed in any **\*121** tangible medium of expression” for this requirement,<sup>23</sup> but earlier versions of the statute referred to works “already printed,”<sup>24</sup> works “invent[ed], design[ed], engrav[ed], etch [ed] or work[ed],”<sup>25</sup> or publication of a (presumably already existent) copy of the work.<sup>26</sup>

A second thread in the development of U.S. copyright law has been the assumption, even veneration, of singular authorship. The copyright owner is the author, the 1976 Act reminds us, and “author” typically means a sole creator or very small group of collaborators.<sup>27</sup> The quintessential joint authors, as far as the Copyright Act is concerned, are a lyricist and musician songwriting team. Most other creation is presumed by the Act to be the culmination of the efforts of a solitary genius applying his talents.<sup>28</sup> Incremental development by many creators, large-group collaboration, or advancement of knowledge by borrowing from and reimagining the expression of others are not recognized by the Copyright Act as legitimate forms of creativity.<sup>29</sup> Western copyright law brooks no recognition of creator paradigms other than that of the solitary genius. Only works that are “original” merit copyright protection, and the judicial definition of an original work (which is not defined in the Copyright Act itself) is a work containing a “modicum of creativity” that owes its origin to the person claiming copyright in such work.<sup>30</sup> The presumption inherent in the definition is that all expressive works “originate from some [single] human creator,” but may also emerge from a creative process involving “borrowing and reworking.”<sup>31</sup>

A third thread in U.S. copyright law is the “strict liability” nature of the copyright infringement cause of action. The Copyright Act asks merely whether a copyright defendant made copies, distributed copies, prepared derivative works, publicly performed, or publicly displayed the work at issue.<sup>32</sup> Anyone who “violates any of **\*122** the exclusive rights of the copyright owner . . . is an infringer of the copyright,” regardless of mental state.<sup>33</sup> Unless the fair use doctrine is raised by the defendant, or the defendant is accused of contributory infringement and charged with knowledge of another’s direct infringement, the Act makes no inquiry into the purpose of the copying or the mental state of the copier in determining liability.<sup>34</sup> Defendant’s willfulness on the one hand, or lack of knowledge on the other, may enhance or limit remedies in a given case, but mental state will generally matter little in labeling someone an infringer.<sup>35</sup> Unless the defendant argues fair use, the Act similarly does not inquire into the impact of the copying on the owner of the copyright. In general, if the defendant has made use of plaintiff’s protectable expression in any of the ways prohibited by Section 106, regardless of why or to what end, she is an infringer, period.

Judicial interpretations of the rights of copyright owners have rarely been amenable to any view but the strict liability view described previously. Near absolute protection of the physical copy from any reproduction, adaptation, distribution, public display, or public performance has been the rule in the general case, and in the case of litigants from the hip-hop culture. Examples from hip-hop cases demonstrate the reluctance to deviate from the strict liability approach. Although there are exceptions, the general rule has been that hip-hop’s ideas about copying are unwelcome in copyright jurisprudence.

A number of early litigations involving copyright owners suing hip-hop artists for copyright infringement for sampling or otherwise duplicating portions of their copyrighted works settled without any legal determinations regarding the copyright issues.<sup>36</sup> Then, in 1991, the District Court for the Southern District of New York decided *Grand Upright Music Ltd. v. Warner Bros. Records, Inc.*, the first reported **\*123** decision applying copyright law to hip-hop’s copying culture.<sup>37</sup> Marcel Hall p/k/a Biz Markie, sampled three words and a musical segment from Raymond “Gilbert” O’Sullivan’s “Alone Again (Naturally)” and used the sample in a song called “Alone Again” on Biz Markie’s *I Need a Haircut* album. In granting a preliminary injunction which led to the removal of *I Need a Haircut* from the market, not only did Judge Kevin Thomas Duffy dismiss the defendants’ argument based on the widespread use of music samples in the hip-hop community, he also cited the Seventh Commandment and referred the matter to the United States Attorney for possible criminal prosecution.<sup>38</sup> The parties

eventually settled the case, but not before Biz Markie's career was damaged by the disappearance of his album from store shelves.<sup>39</sup> Biz Markie tried to legitimize hip-hop cultural practice in the eyes of the Copyright Act, but it was clear from the beginning that the music's cultural nuances would not get much of a hearing when in conflict with copyright law's strict liability ethos.

In *Jarvis v. A&M Records*, the court considered several summary judgment motions by defendants, who had digitally sampled portions of Boyd Jarvis' song "The Music's Got Me" for use in their song "Get Dumb (Free Your Body)."<sup>40</sup> The defendants conceded copying, and that such copying was without authorization.<sup>41</sup> They argued for summary judgment in their favor on copyright infringement by maintaining that their copying of small bits of the work resulted in what Raymond Nimmer has called "fragmented literal similarity," and that such use should not be deemed infringing unless it results in two works sounding "similar in their entirety" to the lay listener.<sup>42</sup> The court rejected that argument on the basis that plaintiff's work may be diminished by defendant's copying of even small portions of it, "if the part that is copied is of great qualitative importance to the work as a whole."<sup>43</sup> Fact finding on the issue of importance of the portion copied was necessary, and thus summary judgment was inappropriate; the court expressed concern that the result sought by the defendants might allow too much infringement by providing immunity for any copier who copied a fragment from a song and used it in a different genre, so that the relevant lay listener would be unlikely to confuse the two songs in their entirety.<sup>44</sup> Interestingly, in setting the boundaries for acceptable copying, the \*124 court appeared to be most concerned about precisely the type of creation that most hip-hop artists were engaged in at the time.

The Ninth Circuit Court of Appeals seemed to soften copyright law's stance on hip-hop's copying of short segments of musical compositions in *Newton v Diamond*.<sup>45</sup> The Beastie Boys had sampled a three-note portion of James Newton's "Choir" for use in their song "Pass the Mic." The group had obtained a license from ECM Records for use of the "Choir" sound recording, but it had not sought a license from Newton for use of his composition.<sup>46</sup> The court affirmed the district court's grant of summary judgment in defendants' favor, holding that the Beastie Boys' use was a *de minimis* use of the "Choir" composition, and not actionable. Lest the hip-hop community become too comfortable with the law's seeming new openness to its creative practices, the Sixth Circuit made it clear in *Bridgeport Music, Inc. v. Dimension Films*, that there is no *de minimis* exception to unauthorized copying of a sound recording.<sup>47</sup> Hip-hop artists would continue to be at risk if they copied a segment of a sound recording, no matter how brief, without clearing the sample and dealing with the copyright owner. In another case involving the same music publisher, *Bridgeport Music, Inc. v. UMG Recordings, Inc.*, the Sixth Circuit strengthened the case against sampling by upholding a jury's rejection of a fair use defense (and the jury instructions that led to such rejection) despite any alleged transformative nature of defendant's copying or any alleged intent on defendant's part to pay homage to the copied-from artist.<sup>48</sup>

The Copyright Act has a few built-in limitations on the rights of copyright owners that provide some space for imitation by others of parts of a copyrighted work. Chief among the limitations are the idea-expression dichotomy and the prohibition against copyrighting facts.<sup>49</sup> Ordinarily, however, designation of a work as original expression leads to the work falling outside of the idea-expression dichotomy and the prohibition against copyrighting facts, and further results in imposition of the strict liability protection regime described above. However, a few narrow allowances for copying of expression are made by the law. The merger doctrine bolsters the idea-expression dichotomy in its limiting role by deeming certain expression \*125 "merged" and not protectable if there are a limited number of ways to express the idea underlying such expression.<sup>50</sup> Additionally, the fair use doctrine provides that certain uses of a copyrighted work for purposes such as "criticism, comment, news reporting, teaching . . . scholarship, or research" are not infringing.<sup>51</sup> The fair use determination depends on an analysis of four factors under the statute: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect on the market for the copyrighted work.<sup>52</sup> Why are the forgoing limitations on copyright not enough for my purposes? It is primarily because of the danger of overprotection. The uncertainty surrounding the interpretation and application of the fair use standard, for example, creates a significant risk of "excessive compliance," as certain users err on the side of not engaging in what could turn out to be fair uses.<sup>53</sup> Such excessive compliance leads to cultural impoverishment, as any number of follow-on uses which would serve the intellectual enrichment goals of the copyright system go un-attempted.<sup>54</sup> There is some evidence of the aforementioned over-compliance and cultural impoverishment in modern hip-hop music.<sup>55</sup>

Traditional copyright enforcement was not kind to traditional hip-hop practice. For the technological, cultural, and generational reasons discussed below, it is time to turn the tables and allow the traditional hip-hop ethos to shape the modern direction of copyright. Despite copyright's insistence on strict liability for most copying of expression, consumers and re-users of copyrighted works have been pushing back. The next part of the Article discusses how the marketplace has begun to define its own boundaries for copying, including boundaries regarding secondary creation.

## \*126 II. Impact of Technology

### A. The Act of Copying and Attitudes Toward Copying

The modern problem for copyright law is that the world, in a sense, has passed it by. First, technology has made copying, adapting, and distributing works much cheaper and easier than before. What used to require sophisticated and expensive equipment, warehouse space, and perhaps logistics capability now requires only a computer, inexpensive or free software, and an internet connection. Of course, technological change has always impacted copyright law and the copyright industries. But the current wave of change allows for such a high degree of user creation and consumer-to-consumer dissemination that the traditional creative distribution infrastructure can be bypassed entirely, even while a robust pipeline of expressive output is maintained.<sup>56</sup>

At least as important as the technological lapping of copyright is the profound cultural disconnect faced by the copyright industries and the Copyright Act. Since at least the time of the original Napster, the idea that information and culture should be freely available because the technology makes such availability possible has influenced the public mind when it comes to the copyright monopoly and its obsession with charging consumers for access to physical copies of works. The spawning of a “Cult of Free” surrounding music, movies, and the like is aided by the absence of a tangible thing in many cultural transactions today.<sup>57</sup>

As a number of commentators have observed, human psychology reinforces the effects of the “Cult of Free.” Ben Depoorter discusses the tendency of file sharers to translate the benefits they derive from file sharing into a normative belief that the activity should be legal.<sup>58</sup> In order to battle any cognitive dissonance given their knowledge that the practice is technically illegal, many users internalize the idea that copyright law is outdated or biased, and develop anti-copyright behavioral norms implementing that idea.<sup>59</sup> Brett and Shane Lunceford go so far as to say that copyright law is “unenforceable in its current state because copyright is not really a concern in the public mind.”<sup>60</sup> In the absence of any reason beyond fear of punishment \*127 to obey copyright laws, Lunceford and Lunceford are not convinced that citizens will continue to be interested in following the rules regarding copying, and they suggest that winning “hearts and minds” is the copyright industries’ only hope for future compliance.<sup>61</sup>

Most challenging for proponents of traditional copyright law is that those citizens most interested in following the traditional rules are a dying breed. A generation raised on free music, file sharing, and remix culture is bringing into adulthood expansive notions regarding permissible copying and authorship. In recent studies, forty percent of college undergraduates admitted to copying portions of assignments, and only twenty nine percent considered copying material from the Internet for an assignment--which many professors would consider plagiarism--to be “serious cheating.”<sup>62</sup> College age citizens have adopted a copying norm that does not view swapping of copyrighted music or movies as wrong.<sup>63</sup>

### B. Suggestions from the Literature for Bridging the Gap

Several commentators have suggested copyright reforms that could help the law bridge this technological and generational gap. Wendy Gordon argues for a harmless use exception to infringement. Such an exception would require a copyright owner to “prove either that she has been harmed, that she is suing simply to clarify title, or that the defendant’s use is not the kind that would be substantively impaired” by having to seek prior permission from the owner.<sup>64</sup> Gordon’s framework improves on copyright’s strict liability approach by treating differently those uses of copyrighted works that are Pareto optimal to nonuse, providing a place for uses that enrich others without making the copyright owner worse off.<sup>65</sup>

Similarly focusing on the harm caused by the infringing use, Thomas Cotter would revise the fair use analysis to give less weight to whether a defendant’s use is transformative (aiding the defendant’s fair use defense), and more weight to whether such use threatens plaintiffs with “cognizable harm” (in which case the fair use argument is weakened).<sup>66</sup> Where the use creates a risk of the type of harm that the copyright law was intended to prevent, such as harm to the incentive to create, then \*128 the system should be inclined to prohibit or limit the use (as one factor in the overall fair use scheme).<sup>67</sup> Uses that do not tend to reduce the incentive to be an author could and would be treated differently.

Tim Wu recognizes that much of today’s technically infringing behavior is “mass low-value,” copying carried on by large

numbers of users (often with the aid of digital technology and the Internet), with each transaction having an extremely small effect, if any, on the value of the copyright owner's monopoly.<sup>68</sup> That state of affairs calls for a move away from a copyright system that seeks to mirror tangible or real property systems, where trespasses are infrequent and high value. Instead, Wu argues for further recognition by the law and by copyright owners of "tolerated uses," those uses that for various reasons are known to copyright owners but not acted upon by invoking the Copyright Act.<sup>69</sup> In a mass, low-value infringement world, the law should be more tolerant of uses that complement the copyrighted work, such as fan sites that use images from a movie but also generate excitement for the film and its ancillary merchandise. And copyright owners should reduce the uncertainty surrounding tolerated uses by publishing "No Action" policies, alerting the user community (and presumably, the courts) of those uses to which the copyright owner will acquiesce.<sup>70</sup>

Although the literature has begun to define new directions for copyright law, there is more work to be done. Because of the technological and cultural challenges described above, exploration of norms-based systems will be important in moving copyright forward. It is long past time for copyright to take cues from creative people as to what approaches will preserve and strengthen incentives to create. Copyright also needs to acknowledge the role of users, a group that increasingly overlaps with the community of creative people. In today's creative world, users are key players in assessing the value of creator contributions (think of how many pop stars are currently "discovered" by the recording industry via reality show viewer polls or viral Internet videos). The user relationship with a work can give important cues about how to protect works in general, as can notions of collective ownership arising from strong emotional identification between user and work. Lunceford and Lunceford refer to this latter idea as "cultural ownership," and call for allowances of some non-commercial uses of copyrighted content.<sup>71</sup> K.J. Greene **\*129** has called for the content industries to understand and assimilate "copynorms," actual social attitudes toward so-called piracy.<sup>72</sup> One potential source for such copynorms is the set of norms regarding imitation within the hip-hop community. Given the current popularity and influence of hip-hop music and culture, and given the particular relevance of the art form for the generations that are least inclined to internalize the Copyright Act's strictures, a hip-hop copying paradigm may be a useful building block of a vision of copyright law in the digital age. The next part discusses how community norms have been useful in robustly protecting expressive enterprise in a number of creative communities and sets the stage for development of the traditional norm framework within the hip-hop creative community.

### **III. Potential Influence of Norms-Based Approaches to Regulation of Copying**

Accomplished chefs have as much interest in protecting their innovative recipes as any content provider in the entertainment industry. But chefs appear to rarely use intellectual property law to protect their intellectual property.<sup>73</sup> Instead, they depend on a strong core set of self-enforced social norms that both protect innovators and promote the sharing of knowledge. First, a chef "must not copy another chef's recipe innovation exactly."<sup>74</sup> Second, if a chef shares recipe information with a colleague, that colleague may not further disseminate that information without the permission of the innovator.<sup>75</sup> Third, if a recipe gains renown, all users of it must credit the innovator.<sup>76</sup> Violators of this code of norms run the risk of being shut out of the information sharing that is a key part of a chef's professional and artistic development.<sup>77</sup>

Professional magicians also protect intellectual property with little or no reliance on intellectual property law. They employ a set of norms around attribution, use, and exposure instead. Being the first to perform or publish a trick earns a magician credit for inventing it; other magicians are encouraged to improve existing tricks that have been shared with them by the innovator, but the adapter must give **\*130** credit to the original performer.<sup>78</sup> If a magician's innovation has not been shared widely within the community, those few who do know it may not use it; if the information has been widely shared, published, or sold, others in the community may use it freely.<sup>79</sup> Copying a magician's particular dramatic presentation of a trick is bad form, even if the trick itself is widely known or considered fair game for use by others.<sup>80</sup> A magician who re-discovers an old trick that has not been performed for a long time is treated as a sort of modern inventor of the trick.<sup>81</sup> Magic secrets are never to be revealed to non-magicians.<sup>82</sup> Violators of these norms may be shunned; denied valued opportunities to lecture, publish, and perform in competitions; stripped of membership in prestigious magic organizations; or even cut off from supplies of props and apparatuses.<sup>83</sup> Enforcement of this "norm-based IP regime protects against harmful exposure while enabling and encouraging productive innovation and sharing."<sup>84</sup>

Stand-up comedians, too, operate a system for protection of creation that has little to do with the copyright system. Their most important norm, the norm against appropriating the joke of another, or "joke stealing," is enforced by sully the reputation of the joke stealer or by refusing to work with her.<sup>85</sup> Even taking the general idea of certain jokes is forbidden, and an injured comedian may seek redress by confronting the offender privately or publicly.<sup>86</sup> In the event of two comics telling similar jokes, the first to perform her version of the joke has priority.<sup>87</sup> There is no joint authorship, and, as between

collaborators, the comic who came up with the premise of the joke (as opposed to the punch line) is the owner.<sup>88</sup> Jokes can be bought or sold, and the buyer becomes the complete owner of the material.<sup>89</sup> Sellers may not even be acknowledged as the writer of the joke.<sup>90</sup> The norm system seems to be concerned with identifying a single “owner,” even if that person is not the sole person responsible for the creation of the joke.

**\*131** Each of the examples above demonstrates the staying power of norms-based systems among communities of creators. Each set of norms supports a continuing tradition of innovation in a long-established and stable professional group. Each balances protection and dissemination, while also balancing interests of innovator and potential subsequent users. Without using the current copyright system, these communities give creators their due, while making space for follow-on creation as well. Traditional hip-hop approaches to copying evince a similar sense of balance, and offer lessons that may be exportable to copyright law in a manner consistent with its purpose of providing incentives to create while maintaining a robust public domain.

#### IV. The Hip-Hop Imitation Paradigm

##### A. Structure

Hip-hop recognizes at least eight different ways in which an artist can imitate an existing piece of expression: three types of wholesale lyrical or musical appropriation, three types of lyrical quoting, and two types of musical sampling. This article will discuss the following specific types of copying in turn: biting, beat jacking, ghosting, battle quoting, homage quoting, riff quoting, self-sampling, and sampling of others.

##### 1. Biting

Biting is the appropriation of another’s lyrics and passing off such lyrics as one’s own without the authorization of the primary lyricist.<sup>91</sup> Traditionally, biting encompassed the taking of the actual words that another emcee had written or recited, or taking elements of the other emcee’s flow, or both. Biting is not merely viewed somewhat negatively; it is among the most egregious, if not the most egregious form of imitation in hip-hop. Early rap lyrics confirm this idea. Grand Master Caz referred to biting as “pure treason.”<sup>92</sup> Slick Rick considered biters to be “back stabbers,” who, despite their having taken someone else’s quality lyrics, were still poor emcees because an inability to deliver the lines correctly:

Cuz we know you’re sick of all these crab rappers

Bitin’ their rhymes, because, um, they’re back stabbers<sup>93</sup>

**\*132** Have you ever seen a show with fellas on the mic,

With 1-minute rhymes that don’t come out right?

They bite, they never write, that’s not polite.

Am I lying? No, you’re quite right.<sup>94</sup>

MC Shan, EPMD, and others expressed outright hatred for biters on record.<sup>95</sup> MC Lyte and Rakim equated biting with immaturity and lack of skill.<sup>96</sup> Queen Latifah, Master Ace, Chubb Rock, and others made clear that biting was an offense, and that the practice carried penalties.<sup>97</sup> KRS-One captured the mood among some in the community by advocating (metaphorically and on record, at least) severe sanctions for biters:

Get it right,

And train yourself not to bite.

Cause when you bite, you have bit,

And when I hear it, that’s it.



I will not contemplate a battle, cause it really ain't worth it.

I'd rather point a pistol at your head and try to burst it.<sup>98</sup>

The usual penalty, however, was the end of the biter's career as a serious artist within the community. Although specific references to biting are not as prevalent as they were in the 1980s, the practice continued to be mentioned through the 1990s and 2000s, and it retains its negative meaning for hip-hop creators.<sup>99</sup> In fact, \*133 artists K-Solo and DMX, who met and exchanged lyrical ideas in prison, have had a long-running beef over who actually wrote "Spellbound."<sup>100</sup> K-Solo released the single when both artists were relative unknowns, and he was accused of having bitten the song from DMX.<sup>101</sup> K-Solo claimed that it was DMX who did the biting and went to great lengths to clear his name, including taking a polygraph (the results of which were inconclusive) and challenging DMX to a five-round mixed martial arts bout. K-Solo eventually slipped into obscurity.<sup>102</sup>

## 2. Beat Jacking

The next type of imitation, beat jacking, also known as beat biting, is the non-lyrical equivalent of biting. When an artist comprehensively appropriates another's "beat," the musical and rhythmic core of a hip-hop song, and treats the beat as if he created it, the appropriator has "jacked" the beat. Beats are often composed from pre-existing recorded sounds, but the particular style with which such sounds are combined help create the appeal of a particular song and build the reputation of the DJ or producer who created the beat. The sort of stylistic appropriation and lack of respect for the work of the beat creator on the part of the beat biter is frowned upon in the hip-hop community. Early hip-hop artists were quick to call others out about beat-biting:

Let me rock this rhyme, only if I may,

It's directed to my man L.L. Cool J.

Your brand new jam sure does sound sweet.

You rocked the bells, but you stole my beat.<sup>103</sup>

Hot damn hoe, here we go again,

Suckers steal a beat when they know they can't win.

You stole the beat, are you havin' fun?

Well, me and the Aud's gonna show you how it's done . . .

Beat biter! Dope style taker!

Tell you to your face, you ain't nothin' but a faker!<sup>104</sup>

\*134 The copying norms of hip-hop stigmatize the wholesale appropriation of the rhythmic/musical underpinning of a song as well as its lyrical content. This recognition of the creative contribution of the beat creator is linked to the primacy of the DJ in early hip-hop music, and the continued importance of the producer's role in laying down tracks today. Beat biting of the type that offended MC Lyte and MC Shan is still reviled, and sanctions for the practice are roughly similar to those for biting. A career can be made or broken based on the provenance of an artist's beats, and what can be surmised about his skill, or lack thereof, from the sourcing of his final product.<sup>105</sup>

A final note on beat biting/beat jacking is necessary. Although the practice was historically viewed negatively, there is a strain of beat jacking that carries more positive connotations from a creative perspective. While taking another's beat and using it unchanged as if it were one's own is objectionable, taking someone's beat for the purpose of battling, baiting, or otherwise calling out the beat creator or his emcee is perfectly acceptable. For example, in the long running beef between Jay

Z and Nas in the early 2000s, each insulted the other at least once by freestyling over one of the adversary's beats. Jacking in order to take the beat out of its original context and demonstrate either the jacker's musical prowess or lack of respect for the jackee is likely to be viewed at least neutrally, if not positively. Ice Cube boasts in one of his songs about the improvements that his crew makes to the beats that it jacks, intimating that the hip-hop community is better off for his having intervened:

And it'll drive you nuts, Steal your beat and give it that gangsta touch. Like jackin' at night say hi to the  
357 I'm packin' And it sounds so sweet. Ice Cube and the Lench Mob is jackin' for beats. . . . Ice Cube,  
take a funky beat and re-shape it, Locate a dope break and then I break it, And give it that gangsta  
lean. Dead in your face as I turn up the bass.<sup>106</sup>

### \*135 3. Ghosting

A third type of wholesale imitation of another's expression is what I will call "ghosting." Ghosting can be characterized as a kind of "authorized" biting. The imitator is using someone else's expression, but is remunerating that person in exchange for consent to imitate. Historically, ghosting was not a favored practice, but its status has become more complex in recent years. Although ghosting offends many hip-hop purists, it is certainly no longer fatal, as it once may have been, to an artist's career.

Although the hip-hop community has traditionally placed a premium on having the ability to write one's own lyrics, in modern hip-hop ghosting may be gaining acceptance in certain circumstances. For example, occasional ghosting with a long-time collaborative partner or crew member is by and large unobjectionable to the hip-hop community. Big Daddy Kane reportedly wrote many lyrics for his friend and fellow Juice Crew member Biz Markie, but he seems to have done so without controversy.<sup>107</sup> Similarly, Ice Cube is said to have ghostwritten for Easy A of N.W.A. during N.W.A.'s heyday.<sup>108</sup>

Ghosting has also gained some acceptance where lyrical prowess is a small part of the artistic persona of the rapper for whom the writing is being done. Lil' Kim, whose persona is more vixen than lyricist, reportedly had rhymes written for her by the Notorious B.I.G. while he was alive. Dr. Dre, known primarily as a producer and beat maker extraordinaire even though he has been rapping since the 1980s, has reportedly been written for by Jay-Z and Royce da 5'9".<sup>109</sup> If a rapper has the requisite delivery and flow to deliver another artist's lines effectively, the community appears to be allowing more space for a fruitful collaboration between writer and performer to occur.<sup>110</sup>

Additionally, ghosting is increasingly viewed at the industry end of hip-hop as part of the normal outsourcing of tasks in an increasingly business-oriented and empire-oriented rap music culture. The entertainment mogul who happens to be a rapper may be analogized to a movie producer who hires all sorts of talent (including writers) in order to bring a project to the market, or to CEO of a manufacturing \*136 company, who oversees the enterprise but need not make every widget with his own hands. Artists who fit this mold and have been written for include Diddy (reportedly written for by the Game, Pharoahe Monch, Skillz, and others) and Will Smith (Nas, Common, Smitty, and others).<sup>111</sup>

### 4. Quoting

There are at least three recognized ways in which an artist may "quote" another artist, that is, imitate their lyrics without reaching the level of wholesale copying represented by biting and ghosting. One artist may quote the other in the "battle" context, twisting the adversary's words or turning them against him in order to belittle him and trumpet the quoter's superiority.

An artist may also quote another out of respect, with a short quote serving as a nod or homage to the other's skill. As noted above, Jay-Z's *What More Can I Say* explicitly announces an intent to lionize, or "big up," a legendary rapper by quoting him.<sup>112</sup> Soon after that announcement, the song quotes verbatim a very popular line from a Notorious B.I.G. song.<sup>113</sup> Respectful quoting often occurs across generations, with a later generation artist quoting one from an older school. For example, both Tupac Shakur (in 1998) and Missy Elliot (in 2009) have used MC Lyte's well-known chorus from 1988's *10% Dis*: "Beat biter, dope style taker. Tell you to your face you ain't nothin' but a faker."<sup>114</sup>

A third type of quoting is quoting for the purpose of riffing, or demonstrating the quoter's lyrical agility and acuity. Like a jazz musician, a hip-hop artist may use a quote from another as a springboard for her own creativity. The quote usually is a well-known, even iconic one, so that the audience clearly understands that the quoter is quoting and not biting. One example is Fat Joe's use of a famous Notorious B.I.G. line in Joe's contribution to Gang Starr's 2003 release *Who Got Gunz*:  
I got seven Mac-11s, about eight .38s,

Nine 9s, ten Mac-10s, the sh\*t's never end.

You can't touch my riches,

Even if you had MC Hammer and them 357 b\*tches.<sup>115</sup>

\*137 I got seven Mac-11s, about eight .38s,

Nine 9s, ten Mac-10s, man this sh\*t never end.

Even if the apple won't spin,

I reach into my back pocket and blast you with this twin.<sup>116</sup>

An even more famous line from Rakim is quoted and rified on by Lil Wayne:  
Thinkin' of a master plan,

Cause ain't nothin' but sweat inside my hand.

So, I dig into my pocket, all my money's spent.

So I dig deeper, and still comin' up with lint.

So I start my mission, leave my residence,

Thinkin' how could I get some dead presidents.

I need money, I used to be a stickup kid,

So I think of all the devious things I did.

I used to roll up, this is a holdup, ain't nothin' funny.

Stop smilin', be still, don't nothin' move but the money.<sup>117</sup>

OK I'm thinkin' of a master plan,

Nah, I'm lyin', Shorty on my mind.

Shorty like a fryin' pan, and I ain't got

Nothin' but sweat inside my hands.

So I dig into my pocket, all my money's spent, . . .

But I don't need a cent, cause Shorty priceless.

I tell it like this, I been (all around the world),

So baby I can take you (all around the world).

I roll up, this is a holdup,

It's young money man, Shorty made me smile When ain't a damn thing funny,

Heh heh, but still don't nothin' move but the money.<sup>118</sup>

All three types of quoting are acceptable in the hip-hop community, and an acceptable quantity of quoting can range from one line to many bars of the quoted song.<sup>119</sup> At the extreme, an entire song may be quoted, if the song is sufficiently iconic and important. In 1993, Snoop Dogg essentially covered Slick Rick's La Di \***138** Da Di, with a few minor lyrical changes.<sup>120</sup> In 2007, Pharoahe Monch released Welcome to the Terrordome, a cover of the classic Public Enemy song by the same name.<sup>121</sup> Quite apart from any issues raised by the Copyright Act and any license fees owed or paid, within the hip-hop community these releases were acceptable homages to important artists and songs of previous generations. The prominent status of the copied songs makes it clear to the community that the copiers are not biting, but are paying respect.

At least as important to the music and the community as respectful quoting are examples of extended quoting for riffing purposes. These borrowings may combine aspects of quoting for homage purposes and quoting to demonstrate one's own prowess. A famous example is Black Star's extensive quoting of Slick Rick's Children's Story in Black Star's song of the same name. The Slick Rick song, a cautionary tale about avoiding the easy money and danger of a life of crime (told in the guise of a bedtime story) is a hip-hop classic. Mos Def of Black Star used the bedtime story construct, as well as some of Slick Rick's lines, as a springboard for a cautionary tale for young hip-hop artists to avoid the easy money of selling out to the recording industry instead of creating music from the heart. At the beginning of the song, Mos Def quotes almost directly from Slick Rick:

Once upon a time, not long ago,

When people wore pajamas and lived life slow.

When laws were stern, and justice stood,

And people were behaving like they ought to, good.

There lived a little boy who was misled,

By another little boy, and this is what he said . . . .<sup>122</sup>

Once upon a time, not long ago,

When people wore Adidas and lived life slow,

When laws were stern, and justice stood,

And people was behaving like hip-hop was good,

There lived a little boy who was misled,

By a little Shatan, and this is what he said . . . .<sup>123</sup>

\***139** By the end of the track, Mos Def has taken the storyline in his own direction, giving a nod to the older song, but making a point as important to him and to the community as Slick Rick's:

He dropped the gun, so went the glory,

And this is the way I have to end this story.

He was only 17, in a madman's dream,

The cops shot the kid, I still hear him scream.

This ain't funny, so don't you dare laugh.

Just another case about the wrong path.

Straight and narrow, or your soul gets cast.

Good night!<sup>124</sup>

Thugs grabbed their guns, so goes the glory,

And this is the way I gotta end this story.

He was out chasin' cream in the American Dream.

Tryin' to pretend the ends justify the means.

This ain't funny, so don't you dare laugh.

It's just what comes to pass when you sell your \*ss.

Life is more than what your hands can grasp.

Good night!<sup>125</sup>

Again, the combination of the respect shown for the older song and the lyrical skill demonstrated in reworking the song garner respect, not sanction, for the copier among hip-hop heads.

## 5. Sampling

The final two types of imitation in hip-hop involve the creation of beats. Sampling, which has been a part of hip-hop from the beginning and is actionable under the Copyright Act if done without authorization, is a prized skill. I include in my definition of "sampling" all of the various DJ/producer skills that go along with sampling (e.g., looping, cutting, mixing). The creativity involved in borrowing bits of sound from other sources and combining them into a new whole that forms the core of the traditional hip-hop song is among the highest forms of creativity recognized by the culture. Therefore, the copying that is incidental to the creation of the beat is readily accepted. Scores of artists have built reputations and careers in hip-hop through inventive beat-making, including the Bomb Squad/Public Enemy, Dr Dre, DJ Premier, and the Beatnuts.

\***140** In addition to sampling the expression of others in creating a beat (often paying homage in the choice of whom and how much to sample), an artist may sample his own prior expression (emphasizing for the audience that his work is of the highest quality and worthy of being re-presented to the world in some form). A good example of such "self-sampling" is the chorus of Notorious B.I.G.'s 1997 release *Kick in the Door*, which samples a B.I.G. line from 1995's *Get Money* by Junior M.A.F.I.A. (a group of which B.I.G. was a member).<sup>126</sup>

## B. The Trademark Connection

Hip-hop's view of originality and imitation appears to be tinged with trademark-like ideas as much as explicit ideas about expression and creativity. The cultural reaction to an instance of imitation can be predicted by asking a number of key questions. First, is there consent from the source or originator of the copied expression? If the answer is yes, then the copying may be deemed ghosting, a not universally loved practice, but a tolerable one. If, on the other hand, there is no consent, the copying may amount to biting, which is much more problematic. The marketplace values authenticity and a clear announcement of who is speaking, but certain "licensed" uses of another's voice are acceptable.

Second, is the source or originator of the expression identified or easily identifiable? In some instances of quoting within hip-hop, an explicit shout-out is given to the originator by the imitator. Snoop Dogg employs such a shout-out in covering *La Di Da Di*. In other instances, the source material is so well known, and so identified with the originator, that no shout-out is

necessary. Everyone knows that Rappers Delight originated with the Sugar Hill Gang, so when the Def Squad quotes it, the community is able to accept the practice for what it is—an homage. Beyond merely accepting it, the community may celebrate the imitation as an indication that the imitator knows his hip-hop history. If the source material is relatively obscure, however, and if there is no shout-out or other explicit acknowledgment of origin, the copier is biting, and is essentially engaging in the tort of passing off in the hip-hop marketplace.

Next, is the imitation used as a springboard for the imitator’s own creativity? If so, then the community is likely to perceive the copying as quoting or sampling, both culturally acceptable. If quoting, either explicit or implicit identification of the source is important. In the battle quoting context, explicit identification of the adversary, along with explicit statements that the copier makes better use of the material than the originator ever could, is not unusual. With respect to quoting for the \*141 purpose of homage or riffing, the source is usually iconic and so well-known that it is implicitly understood by the audience. If the imitator is sampling, then a similar source identification or “identifiability” is important in order to avoid charges of beat biting.

Next, is the imitation brand-enhancing for the source? If the imitation calls attention to the source’s work and either identifies the source or uses an iconic source that needs no explicit identification, the imitator may reinforce the value of the contribution that the source has made to the music, thereby enhancing the source’s brand. Homage quoting and sampling both have this value-reinforcing quality. Even battle quoting may create buzz (and sales) around the source in the course of disparaging it. As such uses enhance the goodwill of the originator and inure to that person’s benefit, the hip-hop community is likely to accept them as permissible copying.

Finally, does the imitation contribute to an overall conversation in the community/culture? If the imitation is expressive or “nominative,” rather than “confusing as to source,” (to use a few more trademark terms of art) it will be more acceptable to the community. For example, the “answer record” (including the “battle record” as a subset) is often imitative of the record being answered, but in the context of the ongoing conversation, such imitation is culturally legitimate.

The bottom line is that the imitation paradigm in hip-hop focuses on marketplace impact. The concern is not with copying per se, but copying that constitutes passing off. The verdict on a particular instance of copying is based on at least a tacit examination of the goodwill effects—whether the copying usurps or enhances the goodwill of the originator as a purveyor of creative works in the marketplace. As it mainly condemns passing off and usurpation, the paradigm leaves plenty of room for “non-trademark” uses of existing works.

Were these trademark-like principles of the hip-hop paradigm to be imported into U.S. Copyright law, they would not be completely foreign. Fair use analysis already examines marketplace effects.<sup>127</sup> Infringement cases look to the effect of defendant’s work on the “ordinary observer,” a marketplace participant, in determining whether there has been illicit copying.<sup>128</sup> The leading Second Circuit copyright case focused on the plaintiff’s “potential financial returns” as the legally protected \*142 interest.<sup>129</sup> At least one court has used passing off language in explaining why piracy of another’s expression is and should be actionable.<sup>130</sup>

### **C. The Authors’ Rights Connection**

To a certain extent, the hip-hop copying paradigm also contains elements of the moral rights of authors. The principle traditional Continental moral rights include (1) the right of integrity, the right to prevent certain alterations of the author’s work, and (2) the right of paternity/attribution, the right to be identified as the author of a work, and to be disassociated from works not one’s own.<sup>131</sup> Hip-hop recognizes a quasi-paternity right for the originating artist. Copying may be acceptable if it is clear who is being copied. Paternity must be acknowledged in order to validate the imitation, but such acknowledgment may be explicit or implicit. When an artist engages in acceptable copying such as paying homage, riffing, or battling, the paternity of the source material will be clear. This may be because the imitator gives an explicit shout-out, or because the source material is well-known in the community.

It should be noted that hip-hop’s authors’ rights impulse may play out differently than traditional continental moral rights or authors’ rights doctrine. Moral rights are often employed as a way of expanding the originator’s control beyond the “economic” rights tied to a creative work. A typical assertion of a moral right involves the author’s limiting some use of the work despite having assigned away the rights of reproduction, adaptation, public distribution, public performance, and/or public display.<sup>132</sup>

In contrast, hip-hop’s authors’ rights sensibility tends to limit the originator’s control over the work in service of the overall imitation paradigm. Any notion of a right of integrity is trumped by hip-hop’s version of the right of paternity (acknowledged \*143 explicitly or implicitly), and by an ethos that supports follow-on creation. Thus, according to hip-hop culture, an originator may insist on being acknowledged as the originator, but may not complain about how her work is used by the imitator. The originator has no valid complaint about the particular choices made by the imitator in riffing, or even about having her own work (beats or lyrics) turned against her in a battle context. As long as there is no biting, both the trademark impulse and the authors’ rights impulse of the paradigm are satisfied.

#### D. The New Style - What the Future of Copyright Could Look Like

The trademark and authors’ rights impulses of the hip-hop imitation paradigm combine to focus on the marketplace impact of copying and the presence or absence of attribution (actual or constructive) in assessing imitation. A number of possible elements of a new Copyright Act framework become apparent from this combination. First, the framework would provide tiered protection based on the age of the work. Assuming that the usurpation risk to an author’s goodwill is greatest when the work is new, and that most of the financial gain to be reaped from a work is realized in its first few years, the framework could provide something like strict liability protection early in the work’s life cycle. As the work ages and becomes known (and as possibilities for constructive or implicit acknowledgment of paternity increase), the level of protection could be relaxed. Some number of years after publication, copying with acknowledgment of source could be permitted.

The framework could go a step further by privileging transformative uses, particularly uses that cite or link to the original work. The incorporation of the transformative privilege with the age-based tiered protection would align copyright law with hip-hop’s “no bitin” ethos. In order to respect the economic incentive goals of copyright policy, and to mitigate the risk of under-compensation of authors for their creative efforts, a compulsory licensing system could be put in place for uses of late life cycle works that have become “well-known.” The author gets remunerated for creating a work that has become a fertile springboard for others’ creativity, but the process of follow-on creation is not slowed by transaction costs and the threat of injunction.

#### V. Conclusion

The relatively nuanced hip-hop imitation paradigm provides a view of copying that could inject flexibility into the approach taken by U.S. copyright law. Not all copying is created equal, and a regime that recognizes different levels of culpability for qualitatively different levels of taking provides a better fit for the modern creative economy, with its prevalent secondary creation, than the traditional approach. Inquiring into the expected economic or branding impact of the borrowing, including the extent to which the borrower is passing off versus making a brand-enhancing use of the original work would be crucial. More work is necessary to define the exact contours of a new structure for regulating copying of expressive \*144 works, but the hip-hop paradigm provides a useful and generationally relevant starting point. If we can focus on eliminating biting, while preserving space for creative quoting and sampling, the Copyright Act and copyright jurisprudence just may survive the 21<sup>st</sup> century after all.

#### \*145 VI. Appendix A

##### Examples of References to Beat Biting

Artist	Album	Song	Line	Link	Release Date
Grand Master Caz	MC Delight/Hate the Game	MC Delight	I’m the C-A-S-A-N-O-V-A and the rest is F-L-Y, the cattle bit this rhyme was my manager, pure treason I’ll tell you why	<a href="http://www.youtube.com/watch?v=IDlgB9MblNA&amp;feature=related">http://www.youtube.com/watch?v=IDlgB9MblNA&amp;feature=related</a>	1979
The Treacheous Three	Rap Music	New Rap Language	For MC’s who bite The fast talkin rhymes, They are gonna feast so get ready to	<a href="http://www.youtube.com/watch?v=Hq3mew_T0as">http://www.youtube.com/watch?v=Hq3mew_T0as</a>	1980

			eat		
Busy B vs. Kool Moe Dee	(Freestyle)	Freestyle	Who Paid for the rhyme asked for it twice, he said Spoonie G I'll pay any price, when Spoonie finally sold it, Busy B stole it like a fucking thief	<a href="http://www.youtube.com/watch?v=dhuqTecycQQ&amp;feature=related">http://www.youtube.com/watch?v=dhuqTecycQQ&amp;feature=related</a>	1983
UTFO	UTFO	Bite It	Our rhymes are recited and we are delighted to give you permission to bite it	<a href="http://www.youtube.com/watch?v=1QcZaCJXkFE&amp;feature=related">http://www.youtube.com/watch?v=1QcZaCJXkFE&amp;feature=related</a>	1985
Slick Rick and Doug E. Fresh	The Show and La Di Da Di	La Di Da Di	Because . . . you know, you're all sick of all these crap rappers biting their rhymes because of they're back steppers	<a href="http://www.youtube.com/watch?v=icBfleYZhpo">http://www.youtube.com/watch?v=icBfleYZhpo</a>	1985
Slick Rick and Doug E. Fresh	The Show and La Di Da Di	The Show	Have you ever seen a show with fellas on the mic with one minute rhymes that don't come out right they bite	<a href="http://www.youtube.com/watch?v=bDkqz5C62SM">http://www.youtube.com/watch?v=bDkqz5C62SM</a>	1985
GrandMaster Flash and the Furious Five	(Single)	Pump Me Up	Then I meat this shark and his name was George, he was biting my rhymes like y'all bite yours I starting writing my rhymes, the shark grew and grew But I was writing more rhymes than the shark could chew The shark got sick and then he exploded 'cause he didn't realize that my rhymes was loaded	<a href="http://www.youtube.com/watch?v=Bt2giMqPmZI">http://www.youtube.com/watch?v=Bt2giMqPmZI</a>	1985
M. C. Shan	The Bridge/ Beater Biter (Single)	Beat Biter	What I really hate most be biting M.C.'s	<a href="http://www.dailymotion.com/video/x5bvis_mc-shan-the-bridge_music">http://www.dailymotion.com/video/x5bvis_mc-shan-the-bridge_music</a>	1986
Roxanne Shante	(Single)	Def Fresh Crew	Hang out at a party till mourning light, chilling all the time while other M. C.'s bite	<a href="http://www.youtube.com/watch?v=_ZlxNDYgVtM">http://www.youtube.com/watch?v=_ZlxNDYgVtM</a>	1986
Kool G Rap	Cold Chillin'	Rhyme Tyme	The rhyme is very hot, you gotta blow on it to bite it	<a href="http://www.youtube.com/watch?v=Nd3BO7xMYbQ">http://www.youtube.com/watch?v=Nd3BO7xMYbQ</a>	1987
KRS One and Boogie Down Productions	Criminal Minded	Poetry	Get it right or train yourself not to bite. Cause when you bite, you have bitten, when I hear it, that's it. I do not contemplate a battle cause it really ain't worth it. I'd rather point a pistol at your head and try toburst it	<a href="http://www.youtube.com/watch?v=gdpl8WQJ9UE">http://www.youtube.com/watch?v=gdpl8WQJ9UE</a>	1987
Kool Mo Dee	How Ya Like Me Now	How Ya Like Me Now	Using my rap style and I'm playing the background meanwhile I aint with that . . . You took my style, I'm taking it back	<a href="http://www.youtube.com/watch?v=iRb9PONMeLY">http://www.youtube.com/watch?v=iRb9PONMeLY</a>	1987
EPMD	Strictly Business	You Gots To Chill	And one thing I hate is a biting M. C., when I enter the party suckers always form a line, then they ease their way up and try to bite my lines	<a href="http://www.youtube.com/watch?v=JUGisre9xNU">http://www.youtube.com/watch?v=JUGisre9xNU</a>	1988
Big Daddy Kane	Cold Chillin'	Wrath of Kane	Bite like a mosquito but still can't complete a rhyme or find the time to design a	<a href="http://www.youtube.com/watch?v=NFxvvg6m_mo">http://www.youtube.com/watch?v=NFxvvg6m_mo</a>	1988



			line		
Slick Rick	The Great Adventures of Slick Rick	Teacher, Teacher	But tonight let's talk about the ones who bite although they know they won't never get it right	<a href="http://www.youtube.com/watch?v=9IPUMLEuqgQ">http://www.youtube.com/watch?v=9IPUMLEuqgQ</a>	1988
MC Lyte	Lyte as a Rock	10% Dis	Beat biter! Dope style taker!? Tell you to your face you ain't nuttin but a faker!	<a href="http://www.youtube.com/watch?v=vmd6E_ZCem4">http://www.youtube.com/watch?v=vmd6E_ZCem4</a>	1988
Doug E. Fresh	The World's Greatest Entertainer	Everybody got 2 get some	I'm not a trend follower, Def rhyme swallower Bitin lyrics cause I wanna get popular	<a href="http://www.youtube.com/watch?v=aUb-FxpLcls">http://www.youtube.com/watch?v=aUb-FxpLcls</a>	1988
Audio Two	What More Can I say	Top Billin	Would you bite a rhyme if you dare, I get the papers so I don't care	<a href="http://outube.com/watch?v=rek8bbn3kJe">http://outube.com/watch?v=rek8bbn3kJe</a>	1988
The Main Source	Think 12"	Atom	But people tend to miss when we shoot the gift It's not to imitate another in minute That's slouch life to crush a bad gimmick We like to shoot the breeze the Main Source way We don't portray another and never will perpetrate any horseplay Meaning that if there's a special request For the Main Source to bite, don't hold your breath	<a href="http://www.cocaineblunts.com/blunts/?p=511">http://www.cocaineblunts.com/blunts/?p=511</a>	1989
The Main Source	Think 12"	Think	Now I've been holding classes on the creation of slick passages so instead of you biting why don't you just wait, don't ever just sink your teeth into something mouth watering cuz you just ordering me to put the foot to that anus	<a href="http://www.youtube.com/watch?v=MRq3kkOh02M">http://www.youtube.com/watch?v=MRq3kkOh02M</a>	1989
LL Cool J	Moma Said Knock You Out	To Da Break of Dawn	Wouldn't bite because your rhymes are Puppy Chow	<a href="http://www.youtube.com/watch?v=FyW1v8_QIIQ">http://www.youtube.com/watch?v=FyW1v8_QIIQ</a>	1989
MC Lyte	Eyes on This	Stop, Look, Listen	You hear me, junior? cause soon you'll Be a grown man with the mic in your hand And understand biting's not part of the plan	<a href="http://www.youtube.com/watch?v=0g_OFB7_z64">http://www.youtube.com/watch?v=0g_OFB7_z64</a>	1989
Gang Starr	No More Mr. Nice Guy	Knowledge	Rhythms and rhymes, cause I respect you Unless you're a biting one, a non-writing one Reciting some of my lines	<a href="http://www.youtube.com/watch?v=AWMyKmp6Nes&amp;feature=player_embedded#!">http://www.youtube.com/watch?v=AWMyKmp6Nes&amp;feature=player_embedded#!</a>	1989
Queen Latifah	All Hail the Queen	Wrath of my Madness	There are those who like my taste, but don't consider biting There's penalties for those who don't do writing, just be reciting	<a href="http://www.youtube.com/watch?v=TxlXcxwdzS0">http://www.youtube.com/watch?v=TxlXcxwdzS0</a>	1989
LL Cool J	Walking With A Panther	1-900 LL Cool J	Cuz you're bitin my lyrics like a Nestle Crunch	<a href="http://www.youtube.com/watch?v=UMnA2LSPWh0">http://www.youtube.com/watch?v=UMnA2LSPWh0</a>	1989
Master Ace	Take A Look Around	Maybe Next Time	You tried biting but biting is a crime . . . Rappers try to play me, just like a sport, try to bite my rhymes at night but get court	<a href="http://www.youtube.com/watch?v=TRr7bZH_4ro">http://www.youtube.com/watch?v=TRr7bZH_4ro</a>	1990
Stetsasonic	Blood, Sweat & No Tears	Uda Man	I don't bite, so let me be	<a href="http://www.youtube.com/w">http://www.youtube.com/w</a>	1991

			clear, hey mic controller let's steal some of Paul's ideas	<a href="http://www.youtube.com/watch?v=D7qQjfSm93E">http://www.youtube.com/watch?v=D7qQjfSm93E</a>	
Boogie Down Productions	Sex and Violence	We in There	You heard Criminal Minded, and bit the whole shit	<a href="http://www.youtube.com/watch?v=yffl4Zk_wPQ">http://www.youtube.com/watch?v=yffl4Zk_wPQ</a>	1992
Gang Starr	Daily Operation	Much Too Much	To a biting M. C. my lines are toxic and chronic	<a href="http://www.youtube.com/watch?v=1u25k3Rlss4">http://www.youtube.com/watch?v=1u25k3Rlss4</a>	1992
DJ Screw vs. Michael 5000 Watts	Screw Music	Screw Music	We thought Watts was gonna bite off Screw	<a href="http://www.youtube.com/watch?v=NkxnfASsbJI">http://www.youtube.com/watch?v=NkxnfASsbJI</a>	1993
Too Short	Get In Where You Fit In	Get In Where You Fit In	Now you're hardcore like CB4, biting, what you wanna be me for? It's your life, you wish it was a Too Short rap, but you gots no game and your bass aint fat	<a href="http://www.youtube.com/watch?v=bjSRfWNXsgQ">http://www.youtube.com/watch?v=bjSRfWNXsgQ</a>	1993
Big Daddy Kane	Daddy's Home	Lyrical Gymnastics	I'm lickin the lyrics and shootin the gat, on the mic black And this is for all of the rappers that like, and they bite that	<a href="http://www.youtube.com/watch?v=-R0QY0ibgdY">http://www.youtube.com/watch?v=-R0QY0ibgdY</a>	1994
Raekwon	Only Built 4 Cuban Linx	Shark Niggas (Biters)	Word. . .you know how niggaz be bitin and shit Niggaz be bitin mad styles n shit from niggaz man	<a href="http://www.youtube.com/watch?v=hM8kQ-kn4Ow">http://www.youtube.com/watch?v=hM8kQ-kn4Ow</a>	1995
The Alkaholiks	Coast II Coast	Coast II Coast	My style gets bit like Peter Parker, If imitation is the greatest form of flattery . . . punk don't flatter me	<a href="http://www.youtube.com/watch?v=Q_8FD40MM-Q">http://www.youtube.com/watch?v=Q_8FD40MM-Q</a>	1995
A Tribe Called Quest	Beats, Rhymes and Life	1Nce Again	Yo I got a crew with the beats and the smarts and I fought my shit up on Linden in the 1-9-2. Forever writing, never biting, ain't shit else to do . . . But if they huddle, and word, then this is good as set. You have MCs dropping bombs thats incredible. Some of the brothers their styles are just despicable. As for me see I just do how I love to do. Try to deny me of my props then I'll be seeing you	<a href="http://www.youtube.com/watch?v=7PK9-ulQyk0">http://www.youtube.com/watch?v=7PK9-ulQyk0</a>	1996
MC Lyte	Bad as I Wanna Be	Cold Rock A Party	You like the rhyme Bite if you dare, I get the paper so I don't care	<a href="http://www.youtube.com/watch?v=gh5OGounafs">http://www.youtube.com/watch?v=gh5OGounafs</a>	1996
The Fugees	The Score	Zealots	Check out the retrograde motion, kill the notion Of bitin' and recyclin' and Callin' it your own creation. I Feel like Rockwell, "Somebody's watching me" I got no privacy whether on land or at sea. And for you bitin' zealots, your raps are cacophonous. Hypocrite, critic, but deep inside you wish you had the pop hit	<a href="http://www.youtube.com/watch?v=fJMT__13-NM">http://www.youtube.com/watch?v=fJMT__13-NM</a>	1996
Rakim	The 18 <sup>th</sup> Letter	I Ain't No Joke	You can't make it so you take it home, break it and bite it	<a href="http://www.youtube.com/watch?v=2TN-kDEKxF0">http://www.youtube.com/watch?v=2TN-kDEKxF0</a>	1997
DJ Pooh	Bad News Travels Fast	MC's Must Come Down	I wish my rhymes were	<a href="http://www.youtube.com/watch?v=2TN-kDEKxF0">http://www.youtube.com/watch?v=2TN-kDEKxF0</a>	1997

			meat and M. C.'s were vegetarians cause when it comes to biting, I don't condone it	<a href="http://www.youtube.com/watch?v=ZxxMIC7iRKs">http://www.youtube.com/watch?v=ZxxMIC7iRKs</a>	
Gang Starr	Moment of Truth	The Militia	Do what bitch niggaz do best bite	<a href="http://www.youtube.com/watch?v=CUapg2mOehI">http://www.youtube.com/watch?v=CUapg2mOehI</a>	1998
Sunz of Man	The Last Shall Be First	Collaboration 98	No copy or biting off what your man make	<a href="http://www.youtube.com/watch?v=FO2GZlYyx-0">http://www.youtube.com/watch?v=FO2GZlYyx-0</a>	1998
Lil Flip	The Leprechaun	Y'all	But I can't be copied my style ain't sloppy do yo CEO put money in his pocket? How does it feel trying to look like me? Nigga you can't even write a hook like me	<a href="http://www.youtube.com/watch?v=smR3qI-amXc">http://www.youtube.com/watch?v=smR3qI-amXc</a>	2000
Lil Flip	(Freestyle)	Lil Flex Diss Monday Night Freestyle	Lil Flex you aint nothing but a Yungstar double. I remember when they had you in the studio, you coming up to me telling me you flow, but you can't do a song with me, you can't rap, you wanna sound just like Yung, now how many times on a freestyle can you "Swing and Swung"	<a href="http://www.youtube.com/watch?v=5MbZfuyrZAs">http://www.youtube.com/watch?v=5MbZfuyrZAs</a>	2000
Z-Ro	The Life of Joseph Mcvey	That'z who I am	I'ma follow the truth and never follow lies so ima ride on Watts until his fat ass apologize for saying what he said about Screw, look who your style is named after (DJ Screw) mother fucker you are number two	<a href="http://www.youtube.com/watch?v=tCWYrYYxsVmY&amp;feature=related">http://www.youtube.com/watch?v=tCWYrYYxsVmY&amp;feature=related</a>	2000
Nas	Stillmatic	Ether	That is Gay-Z and Cockafella Records wanted beef. Started cooking up my weapon, slowly loading up this ammo, to explode it on a camel, and his soldiers, I can handle. This is for dolo and it's manuscript, just sound stupid. When KRS already made an album called Blueprint	<a href="http://www.youtube.com/watch?v=np_ajGU4210">http://www.youtube.com/watch?v=np_ajGU4210</a>	2001
Jay-Z	The Black Album	What More Can I Say?	I'm not a biter I'm a writer for myself and others, when I say a B. I.G. verse I'm only biggin up my brother, biggin up my burough. I'm big enough to do it, I'm that thorough plus my own flow is foolish	<a href="http://www.youtube.com/watch?v=UljJk31V3E0">http://www.youtube.com/watch?v=UljJk31V3E0</a>	2003
Lil Flip	The Take Over	The Take Over- ESG Diss	You ain't write Buy the Car, nigga I wrote that hook But I should of known that day, I couldn't find my notebook . . . Now tell your fans, how you stole raps out my books Tell your fans, Lil' Flip wrote all your hooks I'm spectacular, bite your neck like Dracula Nigga I wrote it, you ungrateful bastard	<a href="http://www.youtube.com/watch?v=0v73GZnAkkQ">http://www.youtube.com/watch?v=0v73GZnAkkQ</a>	2004

Paul Wall	Sole Music Mix tape	Main Event	Quit biting our style and get off our Dick	<a href="http://www.youtube.com/watch?v=vjTRVu15PaM&amp;feature=related">http://www.youtube.com/watch?v=vjTRVu15PaM&amp;feature=related</a>	2010
Army of the Pharaohs	The Unholy Terror	The Ultimatum	Out my rap books, biting ass niggas get your snacks took	<a href="http://www.youtube.com/watch?v=0UbzORbFQ9M">http://www.youtube.com/watch?v=0UbzORbFQ9M</a>	2010

### \*157 VII. Appendix B

#### Examples of References to Beat Biting

Artist	Album	Song	Line	Link	Release Date
Vanity 6	Bite the Beat Single	Bite the Beat	Bite the beat, it tastes so good, bite it till you are satisfied	<a href="http://www.youtube.com/watch?v=uqNEecHQ5Dc">http://www.youtube.com/watch?v=uqNEecHQ5Dc</a>	1982
The Fat Boys	Human Beat Box Single	Human Beat Box	Gonna rock a fresh beat with the human beat box and to the sucka M. C.'s jump off our jocks	<a href="http://www.youtube.com/watch?v=jJewbFZHI34">http://www.youtube.com/watch?v=jJewbFZHI34</a>	1984
Roxanne Shante	Roxanne's Revenge 12" Single	Roxanne's Revenge	And every time I do it right-a, everyone is sure to bite-a . . . Rockin' on the beat-a . . . And if you thinkin' that I'm bitin' your beat, well then you just better know	<a href="http://www.youtube.com/watch?v=J9IFs13w_JQ">http://www.youtube.com/watch?v=J9IFs13w_JQ</a>	1984
Sugar Hill Gang	Smash	Bite the Beat	Bite the Beat	<a href="http://www.youtube.com/watch?v=rMJGqrpqg0">http://www.youtube.com/watch?v=rMJGqrpqg0</a>	1985
Rodney O	These are my Beats 12" Vinyl	These are My Bites	These are my beats, these are my beats	<a href="http://www.youtube.com/watch?v=nm6jDNNYU3Q">http://www.youtube.com/watch?v=nm6jDNNYU3Q</a>	1986
M. C Shan	The Bridge/Beat Biter	Beat Biters	What I really hate most be biting M.C.'s . . . You rocked my bells but you stole my beat	<a href="http://www.dailymotion.com/video/x5bvis_mc-shan-the-bridge_music">http://www.dailymotion.com/video/x5bvis_mc-shan-the-bridge_music</a>	1986
Stetsasonic	On Fire	4 Ever My Beat	Camouflage this beat and the'll never get learned . . . 4 ever my beat	<a href="http://www.youtube.com/watch?v=qf_JGGJho6U">http://www.youtube.com/watch?v=qf_JGGJho6U</a>	1986
Eric B. & Rakim	Paid in Full	I Ain't No Joke	Use pieces and bits of all the hip hop hits	<a href="http://www.youtube.com/watch?v=2TN-kDEKxFO">http://www.youtube.com/watch?v=2TN-kDEKxFO</a>	1987
Boogie Down Productions	Criminal Minded	Essays on BDPism	Our reputation grows as the music gets vicious . . . time and time again I prove to be exciting but time and time again you prove to be biting, I need no judge, no jury, no lawyers, with DJ Scott La Rock, better known as The Destroyer	<a href="http://www.youtube.com/watch?v=rJ3M8NcEnJc">http://www.youtube.com/watch?v=rJ3M8NcEnJc</a>	1987
Marley Marl ft. Master Ace, Craig G, Kool G Rap, Big Daddy Kane	In Control	The Symphony	And never will I ever condone biting in any form	<a href="http://www.youtube.com/watch?v=62gl8dtMjCw">http://www.youtube.com/watch?v=62gl8dtMjCw</a>	1988
M. C. Shan	Down By Law	Give Me My Freedom	Rappers often brag about their bitin deejay . . . I don't bite styles . . . I don't need em	<a href="http://www.youtube.com/watch?v=fnXz1Nfd14U">http://www.youtube.com/watch?v=fnXz1Nfd14U</a>	1988
M. C Shan	Down By Law	Another One to Get Jealous	MC's, dem like to bite the	<a href="http://www.youtube.com/w">http://www.youtube.com/w</a>	1988

		of	things you say Others come along and like the beats you play You know that's considered a dissin of work, ya know	atch?v=FX3gB__JAfs	
Ultramagnetic MC's	Critical Breakdown	Ease Back	Biting and writing and fighting for this beats and wax, rhymes are facts, biting acts . . . biters are around check out the sound	<a href="http://www.youtube.com/watch?v=8tHqsuY7R00">http://www.youtube.com/watch?v=8tHqsuY7R00</a>	1988
MC Lyte	Lyte as a Rock	10% Diss	Beat biter! Dope style taker! Tell you to your face you ain't nuttin but a faker!	<a href="http://www.youtube.com/watch?v=vmd6E_ZCem4">http://www.youtube.com/watch?v=vmd6E_ZCem4</a>	1988
Kool G Rap	Road To The Riches	Poison	Lyrics are fabrics, beat is the lining, my passion in rhyming is fashion designing, now it gets odd it, because people want to sport it	<a href="http://www.youtube.com/watch?v=Ru8hxfokS-I">http://www.youtube.com/watch?v=Ru8hxfokS-I</a>	1989
Audio Two ft. MC Lyte Milk Dee and Positive K	I Don't Care	Start it up Y'all	Well if I was a DJ would I play someone's records strictly for the pay?	<a href="http://www.youtube.com/watch?v=f-266b7K0yc">http://www.youtube.com/watch?v=f-266b7K0yc</a>	1990
Ice Cube	Kill at Will	Jackin For Beats	Ice Cube, will take a funky beat and reshape it Locate a dope break, and then I break it And give it that gangsta lean Dead in your face as I turn up the bass I make punk suckers run and duck because I don't try to hide cause you know that I love to jack a fool for his beat	<a href="http://www.youtube.com/watch?v=ul89erSI0c8&amp;feature=fvst">http://www.youtube.com/watch?v=ul89erSI0c8&amp;feature=fvst</a>	1990
StetsaSonic	Blood, Sweat & No Tears	No B. S. Allowed	Kickin off a fresh rhyme to a beat that's funky Splurgin on the style, you feel you gotta So let loose, sucker . . . Why do you even bother? To call our shit junk From the bottom of heart When you was biting from the start	<a href="http://www.youtube.com/watch?v=PrNJy0IUrds">http://www.youtube.com/watch?v=PrNJy0IUrds</a>	1991
Craig G	Now, That's More Like It	Take the Bait	M. C.'s are the lake that my raps go fishing in . . . take the bait . . . take the beat	<a href="http://www.youtube.com/watch?v=UEEAasygtnnU">http://www.youtube.com/watch?v=UEEAasygtnnU</a>	1991
The Large Professor ft. Pete Rock	High School High Soundtrack	The Rap World	Yo the beat got me twisted rhymes are too delicious you look suspicious wanna bite but can't grip it	<a href="http://www.youtube.com/watch?v=N8HappWUELA">http://www.youtube.com/watch?v=N8HappWUELA</a>	1996
2Pac and Outlawz	Greatest Hits (2Pac)	Hit'em Up	You're a beat biter, a Pac style taker, I tell it to your face you ain't shit but a faker	<a href="http://www.youtube.com/watch?v=o9Ee4u5uXuw">http://www.youtube.com/watch?v=o9Ee4u5uXuw</a>	1998
Natas	WicketWorldWide.com	Bite It	You can take this world nigga all ya gotta do is bite it, you can take my style cuz all they gonna do is bite it, you can take this beat bitch it don't matter just don't bite it	<a href="http://www.youtube.com/watch?v=RhSLai9nvPM">http://www.youtube.com/watch?v=RhSLai9nvPM</a>	1999
The Pharcyde	Plain Rap	Trust	Biting our sound like sandwiches	<a href="http://www.youtube.com/watch?v=GYQpAFY2kD0">http://www.youtube.com/watch?v=GYQpAFY2kD0</a>	2000
OutKast	Stankonia	Xplosion	Sound travels at one thousand, one thirty, feet	<a href="http://www.youtube.com/watch?v=iPsN6u0ESY4&amp;feat">http://www.youtube.com/watch?v=iPsN6u0ESY4&amp;feat</a>	2000

			per second, Niggaz in the street they want it in a hurry, when niggaz start biting that's when 3000 starts to worry	ure=related	
Kardinal Offishall	Quest for Fire: Firestarter, Vol 1	U R Ghetto 2002	You know you are ghetto when the money you got is dead wrong it's royalties from biting Kardinal's song	<a href="http://www.youtube.com/watch?v=b0M4KZPSbeE">http://www.youtube.com/watch?v=b0M4KZPSbeE</a>	2001
Missy Elliot	Da Real World	Beat Biters	Beat Biter, dope style taker, originator, or just an imitator, stealin' our beats like you're the one who made'em	<a href="http://www.youtube.com/watch?v=Rc3FxHQIhCI">http://www.youtube.com/watch?v=Rc3FxHQIhCI</a>	1999

### \*163 Appendix C

#### Examples of Quoting

Artist	Album	Song	Line	Link	Release Date
Rakim Allah (Source Song)	Paid in Full	Paid in Full	Thinkin' of a master plan, cause ain't nothin' but sweat inside my hand. So, I dig into my pocket, all my money's spent. So I dig deeper, and still comin' up with lint. So I start my mission, leave my residence, thinkin' how could I get some dead presidents. I need money, I used to be a stick up kid, so I think of all the devious things I did. I used to roll up, this is a holdup, ain't nothin' funny. Stop smilin', be still, don't nothin' move but the money	<a href="http://www.youtube.com/watch?v=E7t8eoA_1jQ&amp;ob=av2el">http://www.youtube.com/watch?v=E7t8eoA_1jQ&amp;ob=av2el</a>	1987
Lloyd ft Lil Wayne (Quoting Song)	Lessons in Love	Girls Around the World	OK I'm thinkin' of a master plan, nah, I'm lyin', shorty on my mind. Shorty like a fryin' pan, and I ain't got nothing' but sweat inside my hands. So I dig into my pockets, all my money's spent, but I don't need a cent, cause shorty priceless. I tell it like this, I been (all around the world), so baby I can take you (all around the world). I roll up, this is a holdup, it's young money man, shorty made me smile when ain't a damn thing funny, heh heh, but still don't nothing move but the money	<a href="http://www.youtube.com/watch?v=Xv29j4TQc10&amp;ob=av2el">http://www.youtube.com/watch?v=Xv29j4TQc10&amp;ob=av2el</a>	2008
Dr. Dre and Snoop Doggy Dogg (Source Song)	The Chronic	Nothin But a G Thang	Back to the lecture at hand, perfection is perfected so I'ma let'em understand	<a href="http://www.youtube.com/watch?v=fhr5UBZh1rY">http://www.youtube.com/watch?v=fhr5UBZh1rY</a>	1992
Lloyd ft. Young Jeezy & R Kelly (Quoting Song)	King of Hearts	Lay it Down Remix	Back to the lecture at hand my sex is perfection so Im gonna make these chicks	<a href="http://www.youtube.com/watch?v=45W2Xb_zlN0">http://www.youtube.com/watch?v=45W2Xb_zlN0</a>	2011

			understand		
UGK (Source Song)	Too Hard to Swallow	Pocket Full of Stones	Forget black Caesar, brothers call me black Trump, pistol grip pump in my lap at all times, brothers step on other brothers cuts but they don't step on mine	<a href="http://www.youtube.com/watch?v=MnPIXmxyqxA">http://www.youtube.com/watch?v=MnPIXmxyqxA</a>	1992
Slim Thug (Quoting Song)	Already Platinum	The Interview	Pistol grip pump in my lap at all times, they be jacking other fools but they ain't jacking mine	<a href="http://www.youtube.com/watch?v=4-loPhU7uKw">http://www.youtube.com/watch?v=4-loPhU7uKw</a>	2005
Snoop Doggy Dogg (Source Song)	Doggystyle	Doggy Dogg World	Yall niggas better recognize and see where I'm coming from its still east side 'till I die, why ask why? As the world keeps spinning to the D O double G	<a href="http://www.youtube.com/watch?v=YyGdhvtklc8">http://www.youtube.com/watch?v=YyGdhvtklc8</a>	1993
Bun B ft Tupac, Pimp C, and Trey Songs (Quoting Song)	Trill OG	Right Now	Look here shorty let me tell you what the game is and while I'm at it let me tell you what my name is Bun B the big D up in my draws when I pull out my piece it make the girls all pause, yall niggas better recognize when yo bitch choose me shouldn't come as a surprise I knew she was a freak I could see it in her eyes, and Ima bring it out her when I get between them thighs	<a href="http://www.youtube.com/watch?v=5Fd_6hgpltc">http://www.youtube.com/watch?v=5Fd_6hgpltc</a>	2010
Tupac Shakur (Source Song)	Greatest Hits (2Pac)	Changes	Wake up in the morning and ask myself is life worth living should I blast myself?	<a href="http://www.youtube.com/watch?v=psBEj6cUXyk">http://www.youtube.com/watch?v=psBEj6cUXyk</a>	1998
Z-Ro (Quoting Song)	Heroin	Blast Myself	I wake up in the morning and ask myself is life worth living should I blast myself? Before I go to sleep at night I ask myself is life worth living should I blast myself? I look at myself in the mirror and ask myself is life worth living should I blast myself? I got problems but too much pride in me to ask for help so is life worth living should I blast myself?	<a href="http://www.youtube.com/watch?v=9TF8h24h8J4">http://www.youtube.com/watch?v=9TF8h24h8J4</a>	2010
Big Tymers (Source Song)	How You Luv That	Drop it Like it's Hot	Drop drop drop it like its hot, watch out watch out drop it like its hot, whoa whoa drop it like its hot	<a href="http://www.youtube.com/watch?v=VTMmapEBycg">http://www.youtube.com/watch?v=VTMmapEBycg</a>	1998
Lil Wayne ft Mannie Fresh and BG (Source Song) & (Quoting Song)	Tha Block is Hot	Drop it Like it's Hot	I'm on fire yea, I'll make you holla yea, you think I'm playing Ima freak ya down, Ima show you how we do it uptown, I'm wanna hear you make the move ooo BG sounds, I wanna hear you say aw boy you laid that down, ass you laid that down, I'm hot yea, people say I'm off the block, But I won't stop till you drop it like it's hot	<a href="http://www.youtube.com/watch?v=0yX7SYBiVFI&amp;feature=related">http://www.youtube.com/watch?v=0yX7SYBiVFI&amp;feature=related</a>	1999
Snoop Doggy Dogg ft Pharrell (Quoting Song)	R & G	Drop it Like it's Hot	When the Pimp is in the crib Ma drop it like it's hot	<a href="http://www.youtube.com/watch?v=RaCodgL9cvk">http://www.youtube.com/watch?v=RaCodgL9cvk</a>	2004

			drop it like it's hot drop it like it's hot, when the pigs try to get at you park it like it's hot park it like it's hot park it like It's hot, and if a nigga get an attitude pop it like it's hot pop it like it's hot pop it like it's hot, I got the roly on my arm and I'm pouring Sean Don and I roll the best weed cuz I got it going on		
Lil Troy ft Yungstar (Source Song)	Sittin' Fat Down South	I Wanna be a Baller	[Fat Pat] Wanna be a balla shot caller twenty inch blades on the impala, call her, getting laid tonight swisha rolled tight, gotta spray by Ike [Yungstar] I'm a baller I'm a twenty inch crawler, blades on Impala, diamond rottweiler I-10 hauler, not a leader not follower Break these boys off I'm a twenty inch crawler Bust a left, a right, I'm outta sight I'm throwed	<a href="http://www.youtube.com/watch?v=4nO7Uj_cwaQ">http://www.youtube.com/watch?v=4nO7Uj_cwaQ</a>	1998
Yungstar (Quoting Song)	Threwed Yung Player	Threwed Yung Player T. Y.P.	Wanna be a balla shot calla, I'm a twent inch crawler, blades on the impala, I'm not a follower I'm a leader, block bleeder	<a href="http://www.youtube.com/watch?v=ajuc6gp6Z9k">http://www.youtube.com/watch?v=ajuc6gp6Z9k</a>	1999
Fat Pat (Source Song)	Fat Pat's Greatest Hits	Last Man Standing	Bottom all the way to the top and it seemed like a struggle but I had to get out no doubt, about my paper so I had to mash, 150 on the gas now you know I'm going fast all about my cash, ain't no time to play put it in perspective	<a href="http://www.youtube.com/watch?v=60WeYXC5xjg">http://www.youtube.com/watch?v=60WeYXC5xjg</a>	1999
Z-Ro (Quoting Song)	Cocaine	Bottom to the Top	Bottom all the way to the top and it seemed like a struggle so I had to get out no doubt, I'm about my paper so I has to smash, 150 on my dash so you know I'm rolling fast, all about my cash. No weapon will prosper that's formed against me, so you can pull the trigger til the clips are empty, or you can tie a rope in a noose and even lynch me, if God ain't ready for me to go you can't send me, you grabbing a bucket holding onto my legs, don't want to see me make it over the edge, full speed ahead, nothing can step me even if the prison block me, Im'a press 100,000 and sell each and every copy, from a jalopy to a Jag no more doing bad, who go carry all the money I can't fit in my pants, we eat offer 130 hard hits, got a 30 yard 6 for you dirty fraud tricks, candy doors open and close on the van and Magnum, and the	<a href="http://www.youtube.com/watch?v=-Yprs7HYWPM">http://www.youtube.com/watch?v=-Yprs7HYWPM</a>	2010



			Lac, I remember where I came from and I ain't going back, I ain't talking about the hood, I'm talking when it wasn't all good understood, from the bottom to the top		
Fat Pat (Source Song)	Fat Pat's Greatest Hits	The Last Man Standin'	Ain't no time to play put it in perspective, time for ho checkin bitch made nigga wreckin, what ho? With the talking down shit but don't know shit, but all up on my dick?	<a href="http://www.youtube.com/watch?v=60WeYXC5xjg">http://www.youtube.com/watch?v=60WeYXC5xjg</a>	1999
Z-Ro (Quoting Song)	Cocaine	Bottom to the Top	Ain't no time to play, put it in perspective, time for ho checkin bitch made nigga wreckin and collecting, memory weapon selecting, cause a mind is a terrible thing to waste, and I'ma keep my mind in they face	<a href="http://www.youtube.com/watch?v=-Yprs7HYWPM">http://www.youtube.com/watch?v=-Yprs7HYWPM</a>	2009
Notorious B. I.G. (Source Song)	Born Again	Come On	I got seven Mac-11s, about eight .38s, Nine 9s, ten Mac-10s, the shits never end. You can't touch my riches, even if you had MC Hammer and them 357 bitches	<a href="http://www.youtube.com/watch?v=7S2BFxwGl_g">http://www.youtube.com/watch?v=7S2BFxwGl_g</a>	1999
Gang Starr ft Fat Joe and M. O.P. (Quoting Song)	The Ownerz	Who Got Gunz	I got seven Mac-11s, about eight .38s, Nine 9s, ten Mac-10s, man this shit never end. Even if the apple won't spin, I reach into my back pocket and blast you with this twin	<a href="http://www.youtube.com/watch?v=Z4VD8lhHmX4">http://www.youtube.com/watch?v=Z4VD8lhHmX4</a>	2003
DJ DMD ft Lil Keke and Fat Pat (Source Song)	Fat Pat's Greatest Hits	25 Lighters	I jumps up early and I yawned and stretched another day another dollar another case to catch, I take some time and realize that this game is real	<a href="http://www.youtube.com/watch?v=bN35i2V-T9U">http://www.youtube.com/watch?v=bN35i2V-T9U</a>	1999
Paul Wall (Quoting Song)	Sole Music	Take Notes	I wake up in the morning and I yawn and stretch lace up some new J's now I'm new born fresh got the 501 jeans creased starched and pressed	<a href="http://www.youtube.com/watch?v=YB6w8FkOEjc">http://www.youtube.com/watch?v=YB6w8FkOEjc</a>	2010
Big Moe (Source Song)	Purple World	Barre Baby	Now for all yall who ain't heard of me, it's the M O E the Barre baby, I'm a south side living legend from third ward, bone hard, street veteran, it all started in 93', high school I was a fool I was only 18 with the dreams of becoming a ghetto superstar, rolling in foreign cars through the streets of third ward	<a href="http://www.youtube.com/watch?v=OPgTbe4jGUg">http://www.youtube.com/watch?v=OPgTbe4jGUg</a>	2002
Lil Wayne (Quoting Song)	Rebirth	Me and My Drank	Now for all yall who ain't heard of him Mr. M O E, the Barre baby, was a south side living legend third ward, bone hard, street veteran, it all started in 93', high school he was a fool he	<a href="http://www.youtube.com/watch?v=8E3hDkflj9c">http://www.youtube.com/watch?v=8E3hDkflj9c</a>	2010

			was only 18 with the dreams of becoming a ghetto superstar, rolling in foreign cars through the streets of third ward		
Z-Ro (Source Song)	Let the Truth be Told	Mo City Don Freestyle	I come around your corner so slow it'll be the nigga in the damn polo, that's the Ralph Lauren	<a href="http://www.youtube.com/watch?v=O68iTFPaAk&amp;playnext=1&amp;list=PLBEF0207442E4DDB6&amp;index=15">http://www.youtube.com/watch?v=O68iTFPaAk&amp;playnext=1&amp;list=PLBEF0207442E4DDB6&amp;index=15</a>	2005
Paul Wall & C Stone (Quoting Song)	Sole Music	Freestyle	I come around your corner so slow chunk up in the air just to let them boys know	<a href="http://www.youtube.com/watch?v=U8zdr_C_sCo">http://www.youtube.com/watch?v=U8zdr_C_sCo</a>	2010
Kanye West (Source Song)	Graduation	The Good Life	Whether you are broke or rich you gotta get this having money is not everything that having it is	<a href="http://www.youtube.com/watch?v=FEKEjpTzB0Q&amp;ob=av2el">http://www.youtube.com/watch?v=FEKEjpTzB0Q&amp;ob=av2el</a>	2007
Blood Type ft Big K. R.I.T. (Quoting Song)	2 Weeks Notice	I Have Dreams	Whether you are broke or rich you gotta get this, having money is not everything but having it is	<a href="http://www.youtube.com/watch?v=Zl4kfmILxw4&amp;feature=player_embedded#!">http://www.youtube.com/watch?v=Zl4kfmILxw4&amp;feature=player_embedded#!</a>	2011
Z-Ro ft Billy Cook (Source Song)	Cocaine	Gangsta Girl	I know you know I'm a gangsta, by any means necessary I won't be making love to you to Jodeci, Ima be fucking you to Street Military baby, every day all day my attitude is fuck you pay me	<a href="http://www.youtube.com/watch?v=BPFoqJS4pFs">http://www.youtube.com/watch?v=BPFoqJS4pFs</a>	2009
Z-Ro (Quoting Song)	Heroin	Rollin on Swangas	I'm a gangsta, by any means necessary, I wont be making love to you jodeci I'ma be doing you to street Military baby, so hood I might be Swangas on a Mercedes baby, and my ride so clean I know you want to have my baby, baby	<a href="http://www.youtube.com/watch?v=nto58fhmdS8">http://www.youtube.com/watch?v=nto58fhmdS8</a>	2010
LL Cool J (Source Song)	Mama Said Knock You Out	To da Break of Dawn	Cool J is back on the map, When I see you I'm-a give you a slap, That's right, a little kick for that crap, 'Cause my old gym teacher ain't supposed to rap	<a href="http://www.youtube.com/watch?v=FyW1v8_QIIQ">http://www.youtube.com/watch?v=FyW1v8_QIIQ</a>	1990
Eastern Conference All-Stars feat. Tame One, Copywrite, J-Zone, Cage, Mr. Eon, Mad Skillz & Camu Tao (Quoting Song)	Eastern Conference All-Stars II	Eastern Conference All-Stars	UPS is hirin' so close your trap, 'Cause my old gym teacher ain't supposed to rap	<a href="http://www.youtube.com/watch?v=GcPJpxm9QG8">http://www.youtube.com/watch?v=GcPJpxm9QG8</a>	1998
Run-D. M.C. (Source Song)	Run-D.M.C.	Sucker MCs	Fly like a dove, and come from up above, I'm rockin' on the mic, and you can call me Run Love	<a href="http://www.youtube.com/watch?v=9s5DCRAAsyc">http://www.youtube.com/watch?v=9s5DCRAAsyc</a>	1984
Wu-Tang Clan (Quoting Song)	Legend of the Wu-Tang	Sucker MCs	Fly like a dove, that come from up above My name is Iron Lung but you can say one love	<a href="http://www.youtube.com/watch?v=9s5DCRAAsyc">http://www.youtube.com/watch?v=9s5DCRAAsyc</a>	2004
Run-D. M.C. (Source Song)	Run-D.M.C.	Sucker MCs	I'm DMC, in the place to be, I go to St. John's University. And since Kindergarten, I acquired the knowledge, And after 12 <sup>th</sup> grade I went straight to college. I'm light skinned, I live in Queens, And I love	<a href="http://www.youtube.com/watch?v=9s5DCRAAsyc">http://www.youtube.com/watch?v=9s5DCRAAsyc</a>	1984

			eatin' chicken and collard greens. I dress to kill, I love the style, I'm an MC you know who's versatile		
Wu-Tang Clan (Quoting Song)	Legend of the Wu-Tang	Sucker MCs	I'm ODB in the place to be, Didn't go to St. John's University. In the streets of Brooklyn I acquired the knowledge, A Law of Mathematics that's higher than college. I'm fly on skins that I gets in Queens She love filthy swine and my collard greens I'm dressed to kill, you know our style Cause niggas don't know that Dirty Dogg fly	<a href="http://www.youtube.com/watch?v=9s5DCRAAsyc">http://www.youtube.com/watch?v=9s5DCRAAsyc</a>	2004
Jay-Z (Source Song)	The Black Album	Moment of Clarity	If skills sold, truth be told, I'd probably be, Lyrically, Talib Kweli. Truthfully, I wanna rhyme like Common Sense, (But I did 5 mil), I ain't been rhymin' like Common since	<a href="http://www.youtube.com/watch?v=L92dYzBGBhk">http://www.youtube.com/watch?v=L92dYzBGBhk</a>	2003
Talib Kweli feat. Common & Anthony Hamilton (Quoting Song)	The Beautiful Struggle	Ghetto Show	If lyrics sold, then truth be told, I'll probably be, Just as rich and famous as Jay-Z. Truthfully, I wanna rhyme like Common Sense, Next best thing, I do a record with Common Sense	<a href="http://www.youtube.com/watch?v=HAa9nAnp7o8">http://www.youtube.com/watch?v=HAa9nAnp7o8</a>	2004

## Footnotes

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- <sup>1</sup> Jay-Z, What More Can I Say, on The Black Album (Roc-a-Fella Records/Def Jam Records 2003).
- <sup>2</sup> Lyman Ray Patterson, Copyright in Historical Perspective 21, 114 (1968).
- <sup>3</sup> Stephen Breyer, The Uneasy Case for Copyright: A study of Copyright in Books, Photocopies, and Computer Programs, Harv. L. Rev. 281, 323 (1970).
- <sup>4</sup> Emmanuelle Fauchart & Eric von Hippel, Norms-Based Intellectual Property Systems: The Case of French Chefs, 19 Org. Sci. 187 (2008).
- <sup>5</sup> Dotan Oliar & Christopher Sprigman, There's No Free Laugh (Anymore): The Emergence of Intellectual Property Norms and the Transformation of Stand-Up Comedy, 94 Va. L. Rev. 1787 (2008).
- <sup>6</sup> Arti Kaur Rai, Regulating Scientific Research: Intellectual Property Rights and the Norms of Science, 94 Nw. U. L. Rev. 77 (1999).

- 7 Mark F. Schultz, *Fear and Norms and Rock & Roll: What Jambands Can Teach Us About Persuading People to Obey Copyright Law*, 21 *Berkeley Tech. L.J.* 651 (2006).
- 8 Daniel B. Smith, *Creative Vigilantes*, 43 *les Nouvelles* 117, 119 (2008); Jacob Loshin, *Secrets Revealed: Protecting Magicians' Intellectual Property without Law*, in *Law and Magic: A Collection of Essays* 123 (Christine A. Corcos ed., 2010).
- 9 The line is “The rings and things you sing about, bring ‘em out. It’s hard to yell when the barrel’s in your mouth,” from *Rap Phenomenon*. Notorious B.I.G., *Rap Phenomenon*, on *Born Again* (Bad Boy Records 1999).
- 10 Extensive quoting is especially permissible for purposes of riffing.
- 11 Jason H. Marcus, *Don’t Stop that Funky Beat: the Essentiality of Digital Sampling to Rap Music*, 13 *Hastings Comm. & Ent. L. J.* 767, 768 (1991).
- 12 U.S. Const. art. I, § 8, cl. 8.
- 13 *Id.*
- 14 Copyright Act of 1790, in 8 Melville B. Nimmer and David Nimmer, *Nimmer on Copyright*, app. 7 (Matthew Bender rev. ed. 2010) [hereinafter *Nimmer on Copyright*].
- 15 Copyright Act of 1790, § 2, 1 Stat. 124 (1790), in *Nimmer on Copyright*, supra note 14, at app. 7.
- 16 Copyright Act of 1831, § 1, 4 Stat. 36 (1831) in *Nimmer on Copyright*, supra note 14, at app. 7. Even before express inclusion in the statute, musical compositions had been registered and judicially protected under the 1790 Act as “books.”
- 17 Act of Jan. 6, 1897, § 4966, 29 Stat. 481 (1897), in *Nimmer on Copyright*, supra note 14, at app. 7.
- 18 Copyright Act of 1909 § 1(a), 61 Stat. 652 (1909), in *Nimmer on Copyright*, supra note 14, at app. 6.
- 19 Copyright Act of 1909 § 1(e), 61 Stat. 652 (1909), in *Nimmer on Copyright*, supra note 14, at app. 6.
- 20 *Id.*
- 21 17 U.S.C. § 106 (2002).
- 22 *Id.*
- 23 17 U.S.C. § 102(a) (2002).
- 24 Copyright Act of 1790 § 1, 1 Stat. 124 (1790), in *Nimmer on Copyright*, supra note 14, at app. 7.
- 25 Copyright Act of 1831 § 1, 4 Stat. 38 (1831), in *Nimmer on Copyright*, supra note 14, at app. 7.

26 Copyright Act of 1909, 61 Stat. 652 (1909), in Nimmer on Copyright, *supra* note 14, at app. 3.

27 17 U.S.C. § 102(a).

28 See, e.g., Shubha Ghosh, *Enlightening Identity and Copyright*, 49 *Buff. L. Rev.* 1315, 1317 (2001) (Book Review) (arguing that U.S. copyright law is premised on the notion of the “lone genius that creates valuable expression”).

29 This is despite the recognition by scholars that collaboration, incremental development, and borrowing have been a part of musical expression for centuries. See, e.g., Olufunmilayo B. Arewa, *From J.C. Bach to Hip Hop: Musical Borrowing, Copyright, and Cultural Context*, 84 *N.C. L. Rev.* 547 (2006).

30 See, e.g., *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 362 (1991).

31 See Ghosh, *supra* note 28, at 1331-33.

32 17 U.S.C. § 106 (2006).

33 17 U.S.C. § 501(a) (2006).

34 The first factor of the Copyright Act’s fair use test examines “the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.” 17 U.S.C. § 107(1) (2006). The test for contributory infringement requires knowledge of the primary infringing activity, along with inducement, causation, or material contribution on the part of the contributory infringer. See, e.g., *Fonovisa, Inc. v. Cherry Auction, Inc.*, 76 F.3d 259, 264 (9th Cir. 1996); *MGM Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 930 (2005).

35 See 17 U.S.C. § 504(c)(2) (2006) (regarding enhancement or limitation of statutory damages); see also § 506(a)(1) (regarding the role of willfulness in a determination of criminal penalties).

36 See Joanna Demers, *Steal This Music: How Intellectual Property Law Affects Musical Creativity* 92-93 (2006) (discussing litigation brought by the writers of “Good Times” against Sugar Hill Records (“Rapper’s Delight”); Jimmy Castor (“The Return of Leroy (Part I)”) against the Beastie Boys and Def Jam Records (“Hold it Now, Hit it”); the Turtles (“You Showed Me”) against De La Soul (“Transmitting Live From Mars”); and David Bowie and Freddie Mercury (“Under Pressure”) against Vanilla Ice (“Ice Ice Baby”)).

37 780 F. Supp. 182 (S.D.N.Y. 1991).

38 *Id.* at 183, 185.

39 Demers, *supra* note 36, at 94.

40 827 F. Supp. 282, 286 (D.N.J. 1993).

41 *Id.* at 289.

42 Id. at 289-90.

43 Id. at 291 (quoting *Werling v. Readers Digest Ass'n*, 528 F. Supp. 451, 463 (S.D.N.Y. 1981)).

44 Id. at 290.

45 388 F.3d 1189 (9th Cir. 2003).

46 Id. at 1191.

47 401 F.3d 647, 658 (6th Cir. 2004).

48 585 F.3d 267, 278 (6th Cir. 2009).

49 Section 102(b) of the Act provides that copyright protection shall not “extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery ....” 17 U.S.C. § 102(b) (2006). Facts are denied protection under copyright law because they do not owe their origin to any cognizable author. See, e.g., *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 347 (1991).

50 See, e.g., *Morrissey v. Procter & Gamble Co.*, 379 F.2d 675, 678-79 (1st Cir. 1967).

51 17 U.S.C. § 107 (2006).

52 Id. at § 107(1)-(4).

53 See Ben Depoorter, *Technology and Uncertainty: The Shaping Effect on Copyright Law*, 157 U. Pa. L. Rev. 1831, 1837 (2009).

54 See *id.*

55 For example, Chuck D and Hank Shocklee of Public Enemy have commented that the increased cost of copyright clearances starting in the 1990s led to artists choosing one song on which to build a beat instead of a multiplicity of songs. According to D and Shocklee, the creative sound collages that typified their original sound gradually gave way throughout hip-hop to a simpler, softer sound lacking the same aural impact. Kembrew McLeod, *How Copyright Changed Hip-Hop; An Interview with Public Enemy's Chuck D. and Hank Shocklee*, Stayfree Magazine, available at [http:// www.stayfreemagazine.org/archives/20/public\\_enemy.html](http://www.stayfreemagazine.org/archives/20/public_enemy.html) (last visited Oct. 20, 2011).

56 Id.

57 See Ivor Tossell, *If Piracy is Wrong, Why Does It Feel So Right?*, *The Globe and Mail* (May 15, 2009), <http://www.theglobeandmail.com/news/technology/digital-culture/download-decade/if-piracy-is-wrong-why-does-it-feel-so-right/article1136934/> (linking the “Cult of Free,” which cheers blatant piracy, to John Peter Barlow’s distinction of extant legal concepts based on matter).

58 Depoorter, *supra* note 53, at 1851-52.

59 Id.

60 Brett Lunceford & Shane Lunceford, Meh. The Irrelevance of Copyright in the Public Mind, 7 Nw. J. Tech. & Intell. Prop. 33, 33 (2008).

61 Id. at 34.

62 Trip Gabriel, Plagiarism Lines Blur for Students in Digital Age, N.Y. Times (Aug. 1, 2010), available at <http://www.nytimes.com/2010/08/02/education/02cheat.html>.

63 Lunceford & Lunceford, *supra* note 60, at 46.

64 Wendy Gordon, Harmless Use: Gleaning From Fields of Copyrighted Works, 77 Fordham L. Rev. 2411, 2435 (2009).

65 Id. at 2434.

66 Thomas F. Cotter, Transformative Use and Cognizable Harm, 12 Vand. J. Ent. & Tech. L. 701, 736-37 (2010).

67 Id. at 726-27.

68 Tim Wu, Tolerated Use, 31 Colum. J.L. & Arts 617, 617-18 (2008).

69 Id. at 630.

70 Id. at 633-34.

71 Lunceford & Lunceford, *supra* note 60, at 47 (describing feelings of cultural ownership over cultural artifacts created by others, such as a favorite comic strip, poem, or Dr. Martin Luther King Jr.'s "I Have a Dream" speech).

72 See K.J. Greene, "Copynorms," Black Cultural Production, and the Debate Over African-American Reparations, 25 Cardozo Arts & Ent. L.J. 1179, 1180 (2008) (describing internet policy as a widespread social problem).

73 See Fauchart & von Hippel, *supra* note 4, at 192 (noting that although recipes seldom rise to the level of novelty needed for patent protection, some techniques can be protected by trade secrecy law).

74 Id. at 188.

75 Id.

76 Id.

- 77 See *id.* (relying on research that shows chefs are more likely to deny sharing information with colleagues found violating social norms).
- 78 Loshin, *supra* note 8, at 136.
- 79 *Id.*
- 80 *Id.*
- 81 *Id.*
- 82 *Id.* at 137.
- 83 *Id.* at 138-39.
- 84 *Id.* at 131.
- 85 Oliar & Sprigman, *supra* note 5, at 1791.
- 86 *Id.* at 1814.
- 87 *Id.* at 1826.
- 88 *Id.* at 1825.
- 89 *Id.* at 1828.
- 90 *Id.*
- 91 Biting Definition, UrbanDictionary.com, [http:// www.urbandictionary.com/define.php?term=biting&Dcfid=255708](http://www.urbandictionary.com/define.php?term=biting&Dcfid=255708) (last visited Sept. 5, 2011) (“Copying another rap artist’s lyrics in a plagiaristic form.”).
- 92 “I’m the C-A-S-A-N-O-V-A, and the rest is F-L-Y, the cat who bit this rhyme was my manager, pure treason, I’ll tell you why.” Grand Master Caz, MC Delight, on MC Delight/Hate Da Game (Jazz Child Records 2000).
- 93 Slick Rick and Doug E. Fresh, La Di Da Di, on The Show/La Di Da Di (Reality/Danya/Fantasy 1985).
- 94 Slick Rick and Doug E. Fresh, The Show, on The Show/La Di Da Di (Reality/Danya/Fantasy 1985).
- 95 “What I really hate most be bitin’ M.C.s,” M.C. Shan, Beat Biter, on Beat Biter (Bridge Records 1986); “I’m the P-Double E-M-D-E-E, and the one thing I hate is a bitin’ M.C. When I enter the party, suckers always form a line. Then they ease their way up and try to bite my lines,” Parrish Smith of EPMD, You Gots to Chill, on Strictly Business (Priority Records 1988).



- 96 “Be a grown man with the mic in your hand, and understand bitin’s not part of the plan,” MC Lyte, Stop, Look, and Listen, on Eyes on This (First Priority Music 1989); “This is what we all sit down to write. You can’t make it, so you take it home, break it and bite,” Eric B. & Rakim, I Ain’t No Joke, on Paid in Full (Island/4th & B’way 1987).
- 97 “There are those who like my taste, but don’t consider biting. There’s penalties for those who don’t be writing, just reciting,” Queen Latifah, Wrath of My Madness, on All Hail the Queen (Tommy Boy Records 1989); “You tried biting, but biting is a crime .... Rappers try to play me, just like a sport. Try to bite my rhymes at night but get caught.” Masta Ace, Maybe Next Time, on Take a Look Around (Cold Chillin’ Records 1990); “Biting is a crime, and I’ll drop the dime.” Chubb Rock, Caught Up, on And The Winner Is... (Select Records 1989).
- 98 KRS, One of Boogie Down Productions, Poetry, on Criminal Minded (B-Boy Records 1987).
- 99 See, e.g., Gang Starr, The Militia, on Moment of Truth (Noo Trybe/Virgin/EMI 1998) (“I got stripes, while you got strikes and bogus mikes. Do what b\*tch n\*ggaz do best and bite.”); Lil’ Flip, Takeover, The Takeover (BCD Music Group 2004) (“You ain’t write ‘Buy the Car,’ n\*ggga I wrote that hook. But, I should have known--that day I couldn’t find my notebook,” “Now tell your fans how you stole raps out my books. Tell your fans, Lil Flip wrote all your hooks.”).
- 100 See K-Solo’s Biography, All Music (Aug. 12, 2011), [http:// www.allmusic.com/artist/k-solo\\_p26104/biography](http://www.allmusic.com/artist/k-solo_p26104/biography).
- 101 Id.
- 102 Id.
- 103 M.C. Shan, Beat Biter, on Beat Biter (Bridge Records 1986).
- 104 MC Lyte, 10% Dis, on Lyte as a Rock (First Priority 1988).
- 105 It should be noted that an accusation of beat biting by itself is not determinative of the accused’s career path. LL Cool J, accused by M.C. Shan in Beat Biter, went on to have a long multi-platinum recording career, which he has since parlayed into an acting career. Antoinette, accused by MC Lyte in 10% Dis, effectively faded into obscurity soon thereafter.
- 106 Ice Cube, Jackin’ For Beats, on Kill at Will (Priority Records 1991).
- 107 Hastings Cameron, Diddy’s Little Helpers: Why Hip-Hop Ghostwriting is an Art Now, and an Actually Respectable One, Village Voice (Nov. 14, 2006), <http://www.villagevoice.com/2006-11-14/music/diddy-s-little-helpers/>. Big Daddy Kane also reportedly wrote “Have a Nice Day” for Juice Crew member Roxanne Shanté. Id.
- 108 Id. Ice Cube also wrote for and with his cousin Del tha Funkee Homosapien.
- 109 Adam Conner-Simons, Hip-Hop’s Ghostwriters, Gelf Magazine (Aug. 14, 2007), [http://www.gelfmagazine.com/archives/hiphops\\_ghostwriters.php](http://www.gelfmagazine.com/archives/hiphops_ghostwriters.php).
- 110 See Jesse Kramer, Some Thoughts on Ghostwriting, Rap Rebirth Blog (June 12, 2010), <http://rap-rebirth.com/blog/?p=25>.

- 111 See Cameron, *supra* note 107; see also Conner-Simons, *supra* note 109.
- 112 Notorious B.I.G., *Rap Phenomenon*, on *Born Again* (Bad Boy Records 1999).
- 113 *Id.* (“The rings and things you sing about, bring ‘em out. It’s hard to yell when the barrel’s in your mouth....”).
- 114 Tupac’s adaptation was, “You’s e a beat biter, a ‘Pac style taker. I tell you to your face you ain’t nothin’ sh\*t but a faker.” 2Pac feat. the Outlawz, *Hit ‘Em Up, How Do U Want It* (Death Row/Interscope 1996). Missy’s was, “Beat biter, dope style taker. Originator, or just an imitator.” Missy Elliot, *Beat Biters*, on *Da Real World* (Goldmind/Elektra 1999).
- 115 Notorious B.I.G., *Come On*, on *Born Again* (Bad Boy 1999).
- 116 Gang Starr, *Who Got Gunz* (feat. Fat Joe and M.O.P.), on *The Ownerz* (Virgin/EMI 2003).
- 117 Eric B & Rakim, *Paid in Full*, on *Paid in Full* (Island/4th & B’way 1987).
- 118 Lloyd, *Girls Around the World* (feat. Lil Wayne), on *Lessons in Love* (Young Goldie Music/The Inc./Universal Motown 2008).
- 119 Extensive quoting is especially permissible for purposes of riffing.
- 120 Slick Rick, *La Di Da Di*, on *The Show/La Di Da Di* (Def Jam Records 1985); Snoop Doggy Dogg, *Lodi Dodi*, on *Doggystyle* (Death Row Records/Interscope Records/Atlantic Records 1993).
- 121 Public Enemy, *Welcome to the Terrordome*, on *Fear of a Black Planet* (Def Jam Records/Columbia Records 1990); Pharoahe Monch, *Welcome to the Terrordome*, on *Desire* (Street Records/Universal Motown 2007).
- 122 Slick Rick, *Children’s Story*, on *The Great Adventures of Slick Rick* (Def JamRecords/Columbia Records/CBS Records 1988).
- 123 Black Star, *Children’s Story*, on *Mos Def & Talib Kweli are Black Star* (Rawkus Records/Priority Records/EMI Records 1998).
- 124 See Rick, *supra* note 122.
- 125 See Black Star, *supra* note 123.
- 126 See Junior M.A.F.I.A., *Get Money*, on *Conspiracy Theory* (Big Beat Records 1995); The Notorious B.I.G., *Kick in the Door*, on *Life After Death* (Bad Boy Records 1997) (“Kick in the door, wavin’ the four-four. All you hear is ‘Papa don’t hit me no more.’”).
- 127 17 U.S.C. § 107(4) (2006).
- 128 See, e.g., *Hamil America, Inc. v. GFI*, 193 F.3d 92, 102 (2nd Cir. 1999) (emphasizing that substantial similarity is a function of the ordinary observer’s scrutiny of the subject works “as used” in the marketplace).
- 129 *Arnstein v. Porter*, 154 F. 2d 464, 473 (2nd Cir. 1946).

- <sup>130</sup> *Boisson v. Banian, Ltd.*, 273 F.3d 262, 266 (2nd Cir. 2001) (“Copying the creative works of others is an old story, one often accomplished by the copyist changing or disfiguring the copied work to pass it off as his own.”).
- <sup>131</sup> See generally Martin A. Roeder, *The Doctrine of Moral Right: A Study in the Law of Artists, Authors, and Creators*, 53 *Harv. L. Rev.* 554, 556 (1940) (reciting components that now comprise the moral right); John Henry Merryman, *The Refrigerator of Bernard Buffet*, 27 *Hastings L.J.* 1023, 1027-28 (1976) (presenting case law to support each component of moral rights); Roberta Rosenthal Kwall, *Copyright and the Moral Right: Is an American Marriage Possible?*, 38 *Vand. L. Rev.* 1, 5 (1985) (showing three major components of the moral rights doctrine); Burton Ong, *Why Moral Rights Matter: Recognizing the Intrinsic Value of Integrity Rights*, 26 *Colum. J. L. & Arts* 297, 298 (2002) (introducing rights of integrity and paternity).
- <sup>132</sup> See, e.g., Judgment of May 28, 1991 (*Huston v. Turner Entertainment Co.*), *Cour de Cassation (Fr.)* (affirming the right of author’s heirs under the French right of integrity to challenge the transmission of a colorized version of a motion picture in France, despite the economic copyright owned by defendant).