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**“Sampling in Hip-Hop - Creative Genius or a Total Flop:
The Aesthetics’ Preservation and Continuity of a Black Musical Tradition”**

Jennifer Olabode

A thesis submitted for partial fulfillment
of the requirements for honors in the
Department of Music

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Abstract

In recent years, sampling has become an ever-present element in modern music. This senior capstone thesis aims to explore the history and impact of sampling in hip-hop. Beginning with a historical focus on hip-hop, I will start by exploring the origins of sampling and how it has been popularized within the music industry, particularly in the hip-hop scene.

Furthermore, this thesis will explore the broader impact of sampling on modern music, including the legal, monetary, and ethical consequences of the practice. Through an analysis of scholarly perspectives, interviews with music industry professionals, and audience perception, I will examine how the use of sampling has affected music culture, specifically in the hip-hop scene, and the wider social landscape. I will also explore how sampling has evolved over time, focusing on recent developments in R&B, house, and hip-hop music.

Finally, this thesis will delve into the broader cultural significance of sampling in music. I will examine how sampling has impacted the perception and reception of different genres of music, and how it has influenced the way we listen to and appreciate music. Through an analysis of case studies and interviews with key industry figures and experts, I aim to provide a comprehensive understanding of the history and impact of sampling in modern music. Overall, this thesis will draw on the extensive literature on sampling and demonstrate the importance of the practice in preserving and promoting black music and culture, and how hip-hop artists can use it to honor and elevate the past while creating new and innovative music. I will highlight how hip-hop artists have used sampling to acknowledge and respect the previous musical traditions they draw on through an exploration of the work of artists such as Kanye West and Beyoncé.

Introduction

“We live in a world of remixes and mash-ups and samples, taking other people's work, remaking it into something new.”¹

Hip-hop scholar Jim Vernon defines sampling as “the extraction of sonic fragments from their larger wholes to creatively ‘remix’ them, seemingly without concern for original context, intent, or ownership.”² Although the latter part may be up for question, the former serves as a great definition. Sampling is a creative process but does not always have to disregard the origins of the pre-existing material. According to Richard Schur, a scholar of American popular music, “the hip-hop aesthete must understand the sociohistorical context of the sampled material and comment ironically on it through layering and rhythmic flow.”³ Hip-hop artists and producers need to be able to hear and listen with a trained ear to spin something new from the original work. “The goal of hip-hop aesthetics is...to reconstruct a textual object”⁴ and to reconstruct one must first understand the original context. It is this importance of history in hip-hop, especially in relation to sampling, that has called for extensive scholarly writing in the field. “Good” artists, defined here as “historically conscious rap artists and writers” are concerned with origins and see it as “the site of truth and purity” within the genre.⁵

¹ Ira Flatlow, “Digital Music Sampling: Creativity or Criminality?,” January 28, 2011, in *Talk of the Nation*, produced by NPR, podcast, MP3 audio, 27:02, <https://www.npr.org/2011/01/28/133306353/Digital-Music-Sampling-Creativity-Or-Criminality>.

² Jim Vernon, *Sampling, Biting, and the Postmodern Subversion of Hip Hop* (Cham: Palgrave Macmillan Cham, 2021), 2.

³ Richard L. Schur, “Defining Hip-Hop Aesthetics,” in *Parodies of Ownership: Hip-Hop Aesthetics and Intellectual Property Law*, (University of Michigan Press, 2009), 47.

⁴ Schur, “Defining Hip-Hop Aesthetics,” 66.

⁵ Justin A. Williams, *Rhyming and Stealin': Musical Borrowing in Hip-Hop* (University of Michigan Press, 2013), 44.

Sampling allows one to reach into the music of the “past” and position it as the music of the “present.” The introduction of capturing sound, with the invention of the phonograph, created this binary of “past” (recorded) and “present” (live) music. Many scholars, including Tricia Rose, have agreed that the practice of sampling has created a link between hip-hop and other genres rooted in African American culture. It allows musicians of today to connect to a black musical past and form their own place within that history. Beyond making great music for their audiences to enjoy, hip-hop artists seem to be interested in the tradition and memory of the foundational music within the black sphere of music. It is this concern, or sometimes lack of concern, that influences the music they choose to borrow and how their audience may respond to the use of the sample.

Ever since the beginning of legal debates over issues of sampling, there has been a discussion about whether the practice is an uncreative process that relies on stealing pre-existing music or if it is a staple technique that is integral to the musicality of hip-hop. Rather than reiterating this discourse, this paper will explore how sampling is important in preserving the rich black culture and how hip-hop artists can position their music to acknowledge the previous musical traditions they draw on. Chapter One provides a historical context of how sampling came to be within hip-hop, highlighting figures who contributed to its development in the genre. Chapter Two explores the legal and financial consequences of samplers borrowing music without proper respect for those they are borrowing from and the ethical responsibilities musicians have to each other. Chapters Three through Five examine different musical examples that have been released in the last twenty years to discuss how musicians have sampled other artists and positioned themselves in relation to them. Chapter Six expands on the existing conversation regarding the creativity that exists within the art of sampling in taking source material and transforming it into a new work.

Chapter 1

The History of Sampling and its Roots in Hip-Hop Culture

In the context of hip-hop, sampling rose to prominence in the 1980s and by the end of the '80s it had cemented itself in the musical culture of popular music. The technique has clear origins in the turntables and record spinning of hip-hop DJs of the 1970s in New York. The disc jockey was arguably the single most important type of musician in the hip-hop scene during this time. They were responsible for looking through crates of records, putting something on the turntable to make the people dance, and interpreting the audience's reaction. One had to know how to manipulate a song to appease the crowd and keep the energy going; it was all in the hands of the DJ to do that in a live setting. "Here you have a figure who stands overlooking a dancefloor with a few crates of records, watching people react and move to whatever gets put on the turntable. And that turntable can manipulate people."⁶

One of the most important figureheads in the history of sampling was Clive Campbell, better known by his stage name DJ Kool Herc. Before digital sampling allowed music producers to cut and paste records, Herc created a new way to mix records. Like any good DJ, he paid attention to the crowd and figured out that the instrumental version or percussion-only breaks made the crowd go wild. So, he started "extending these instrumental breaks by hand, switching from record to record on turntables, chopping from break to break."⁷ This technique of the break, "the part of a record where the music gets heaviest on percussion, unaccompanied or otherwise,"⁸

⁶ Nate Patrin, *Bring That Beat Back: How Sampling Built Hip-Hop*, (Minneapolis: University of Minnesota Press, 2020), 3.

⁷Beza Fekade, "From Riperton To Tribe, and Back Again: Hip Hop Sampling's Sonic Temporality & Resistance," *Journal of Popular Music Studies* 33, no. 4 (2021): 29.

⁸ Patrin, *Bring That Beat Back*, 6.

which was previously used to stop time or to signal a drop in the song, was now used to give the audience a chance to get engulfed in the beat and dance in any way the music compelled them to move. To create this, Herc would cue up a second copy of the record to continue the break once the first copy reached the end of the breakdown, creating a looping effect that would carry out the break for as long as wanted. Aside from this new technique, Herc's invention of what he called the "Merry-Go-Round," where he would string together a series of breaks from different songs, was instrumental in the foundation of hip-hop beats.⁹

If there ever was a founding father in the art of DJing, it would be Cameron Flowers, also known as Grandmaster Flash. He was one of New York's most traveled DJs, known for his expert mixing skills and being able to entertain the different audiences of the New York music scene. A recording from a set in 1981 shows how precise his mixing was as he "smoothly segues between records by Blondie, Spoonie Gee and Sequence, Queen, Chic and the Incredible Bongo Band."¹⁰ This recording, "The Adventures of Grandmaster Flash on the Wheels of Steel," became the "first commercially released recording of hip-hop as it originally existed, a DJ-rooted form of music."¹¹ Using a total of three turntables, this mix relied on the turntable technique of DJ Herc, where he cued up multiple tracks to create a continuous, looping effect. It peaked at #55 on the Billboard R&B singles chart in the U.S. and did not sell well in stores, but it was a staple piece within the early DJing community.¹² This historical recording served as a commentary on how hip-hop could alter the meaning of pieces of music, taking them out of their

⁹ Patrin, *Bring That Beat Back*, 6.

¹⁰ Felicia M. Miyakawa, "Turntablature: Notation, Legitimization, and the Art of the Hip-Hop DJ," *American Music* 25, no. 1 (2007): 91.8/8/2023 8:47:00 PM

¹¹ Patrin, *Bring That Beat Back*, 19.

¹² Patrin, *Bring That Beat Back*, 25.

original context and into another. This was the beginning of hip-hop sampling culture as we know it now.

The Golden Age of sampling is considered by music scholars and fans roughly between 1986 and 1992 when an explosion of technological innovations entered the hip-hop scene. These creative new techniques appeared on new records, like Run-D.M.C.'s *Raising Hell* and the Beastie Boy's *Licensed to Ill*.¹³ New artists emerged during this period with later realized potential for fame and success that would even carry into the next decade of hip-hop. "As the MC and producer Mr. Lif observes, 'The difference between hip-hop production in current times and in the 1980s during the golden era – it just allowed so much more freedom. Like you didn't think about, 'You couldn't sample this, or you couldn't sample that.''"¹⁴ Hip-hop artists were able to make their music how they wanted to, with no legal restrictions.

According to music critic Nate Patrin, the foundation of sampling isn't a difficult one. "At its most basic, you simply take a piece of a preexisting recording and manipulate it... to make it new."¹⁵ You can make it new in several ways; for example, by altering the pitch of the recording, repeating it on a loop, cutting it up into pieces, or rearranging those pieces. All you need is a snippet of an existing piece of music and some creativity, and some tools to make the process happen of course.

When looking at what genre of music is typically sampled, time and time again it is soul, with "samples of old soul veterans like James Brown, Wilson Pickett or King Curtis show[ing] up again and again in rap pieces."¹⁶ With the invention of the sampler, musicians started to pick

¹³ Patrin, *Bring That Beat Back*, 39.

¹⁴ Kembrew McLeod and Peter DiCola, *Creative License: The Law and Culture of Digital Sampling*, (Durham: Duke University Press, 2011), 19.

¹⁵ Patrin, *Bring That Beat Back*, xi.

¹⁶ Fredrich Neumann, "Hip Hop: Origins, Characteristics and Creative Processes," *World of Music* 42, no. 1 (2000): 60.

small fragments or particular sounds in songs and form a collage, looping them in a way that with the addition of a synchronized drumbeat, breaks, and other creative additions transforms these small pieces into a new song. Soul music had ideal one- to two-beat excerpts with no singing, making it perfect to cut out and loop. In addition, soul and funk drummers had a unique sound that hip-hop and rap producers of today seem to prefer to digital drums. “The sound of a James Brown or Parliament drum kick or bass line and the equipment that processed it then, as well as the equipment that processes it now, are all central to the way a rap record feels.”¹⁷ These live drummers added a dimension of life and texture that cannot be replicated digitally, thus making them central to the sonic force of hip-hop.

Historically, hip-hop musicians seem to have attempted a separation from disco to distance themselves from associations with disco’s queer roots. Despite this distancing, there is clearly an overlap between the two genres. Ethnomusicologist Lauron J. Kehrer argues that “rap [often used interchangeably with hip-hop] and disco, and later house music, are more closely connected than they may often appear...in terms of both the actual records the early hip hop DJs were spinning and the places where they were spun.”¹⁸ The most obvious connection can be seen in the physical settings of the birthplace of the music. Scholars agree that disco was born in Black and gay clubs in New York City during the late 1960s and early 1970s.¹⁹ Like many musical genres of this period, including hip-hop, disco was part of a musical movement that allowed individuals from marginalized communities, namely queer folk, to interact in social spaces and have a sense of freedom through music and dance. Disco began in the preceding decade and continued to

¹⁷ Tricia Rose, *Black Noise: Rap Music and Black Culture in Contemporary America* (Hanover: University Press of New England, 1994), 68.

¹⁸Lauron J. Kehrer, "Hip Hop's Queer Roots: Disco, House, and Early Hip Hop," in *Queer Voices in Hip Hop Cultures, Communities, and Contemporary Performance* (University of Michigan Press, 2022), 31.

¹⁹ Kehrer, "Hip Hop's Queer Roots," 20.

provide a soundtrack for multiple marginalized communities such as Black neighborhoods in New York City, where hip-hop was later born in the 1980s.

As discussed earlier, the role of the DJ in early hip-hop was of the utmost importance and they had the duty of mixing and manipulating records, which eventually led to the innovation of sampling beats from jazz and funk songs. DJs in the disco scene also operated similarly, creating a new beat that was in four and emphasized the bass, allowing them to “transition more easily between records and keep dancers on the floor for longer stretches.”²⁰ This extended transition was important in disco, which was situated in liberation politics as it “emerged as an outgrowth of the Stonewall Rebellion of June 1969”²¹ and included a heavy dancing culture, hence its setting in nightclubs. DJs created a space where dance allowed freedom among individuals. Grandmaster Flash, an important figure in the hip-hop DJ scene, also drew from his apprenticeship to disco figure Pete DJ Jones, which is apparent in Flash’s “idea of matching beats per minute, his ‘peekaboo’ method of previewing the cue point of the record he had lined up next through a pair of headphones,”²² which was a technique used in disco music before he introduced it into hip-hop.

The labeling of disco as “dance music” bears much connection to another genre that branched off, house music. Also heard in spaces occupied by mainly black queer folk, house music served as the soundtrack for Black gay dancers in Chicago clubs during the late 1970s, specifically at the Warehouse which has been noted as the birthplace of house. Similar to how Grandmaster Flash and DJ Herc are named the founding fathers of hip-hop, DJ Frankie Knuckles, who worked at Warehouse and actively attended New York City disco clubs, is noted

²⁰ Kehrer, “Hip Hop’s Queer Roots,” 26.

²¹ Tim Lawrence “Disco and the Queering of the Dance Floor” *Cultural Studies* 25, no. 2 (2011): 230.

²² Patrin, *Bring That Beat Back*, 14.

by music scholars like Kehrer as the godfather of house music. As in disco, and later hip-hop, DJs innovated new technologies to better their sets and make the dancing experience more enjoyable for their audience, using techniques such as “increasing the tempo to create a high-energy sound... to make their own mixes of disco and other records (including soul, Philly, and R&B) by looping, remixing, and adding electronic rhythm tracks.”²³ Disco and house DJs played a significant role in the development of hip-hop, creating a shared history and musical techniques between the two genres, which were both dependent on the audience experiencing new, exciting music live and mixed in real-time. The DJs who later developed sampling techniques in hip-hop were active participants in the disco and house scenes, and it is through looping and mixing in these genres that sampling was introduced to the repertoire of hip-hop artists.

The introduction of sampling techniques and technology gave DJs the tools they needed to realize their musical ideas in a quicker, easier way than using turntables. Their integration into hip-hop was dependent on their acceptance by those within the community as useful tools that inspired a new wave of creativity and music based on pre-existing materials. Since the inception of hip-hop, sampling has been integral to the aesthetic of the genre, continuing to have a hold on artists and producers today.

²³ Kehrer, “Hip Hop’s Queer Roots,” 29.

Chapter 2

Sampling's Death to Creativity??

Because sampling involves taking a pre-existing piece of music and incorporating it into a new song, there is a common idea that the practice is a result of a lack of creativity and that using someone else's work as the basis of a new song invalidates the musicality of the new work. This perspective argues that a true creative can come up with something entirely original and unique, without having to rely on pre-existing material. Rather than "borrowing" a sound, critics of sampling call it "stealing." In a blog post titled "Has Hip-hop and Sampling Killed Music?" Nicholas Payton, a Grammy-winning trumpet player, expresses that he "get[s] that Hip-hop at its origins is a pastiche of preexisting records, but sometimes they sample shit when they don't need to" and continues to say that "sampling is cool, but when you learn an instrument, you don't need a sampler."²⁴ Payton calls producers who sample lazy predators "indulging in the sonic equivalent of sloppy seconds," suggesting it's harder to make original music rather than copying others. For Payton and other critics, it seems easier to focus on how uncreative sampling supposedly is instead of how the practice requires tremendous creativity, complexity, and coherence. Prince Be Softly of P.M. Dawn fights against this idea, saying "sampling artistry is a very misunderstood form of music. A lot of people still think sampling is thievery but it can take more time to find the right sample than to make up a riff."²⁵

Given the history of the practice of sampling in hip-hop, a musical genre "transformed into popular symbols of authentic Blackness,"²⁶ it is quite reasonable to assume this general

²⁴ Nicholas Payton, "Has Hip-hop And Sampling Killed Music," *#BAM: Black American Music* (blog), August 20, 2013, <https://nicholaspayton.com/has-hiphop-and-sampling-killed-music/>.

²⁵ Rose, *Black Noise*, 79.

²⁶ Vernon, *Sampling, Biting*, 49.

claim of unoriginality and lack of creativity is a result of placing hip-hop in opposition to non-black music, especially within Western societies. Tricia Rose, an American sociologist, and author who writes extensively on hip-hop supports this argument stating that “this denial is partly fueled by a mainstream cultural adherence to the traditional paradigms of Western classical music as the highest legitimate standard for musical creation.”²⁷ Another argument for the non-musicality of hip-hop is not directly related to its racial politics, but rather contends that it does not contain “typical” elements of “real music” for reasons including that “few rappers are formally trained musicians, rarely compose elaborate melodic phrases, and do not frequently play ‘real’ instruments.”²⁸ Either way, hip-hop is discredited as an art and the disapproval of sampling is a common tactic to support this claim of a lack of original thought.

Contrary to the idea that hip-hop occupies the opposite end of the musical spectrum from Western classical music, there is reason to believe the two operate similarly. Musical borrowing is a quite common phenomenon in classical music tradition, with composers often drawing on pre-existing pieces and referencing them in their works. One example that represents this is the multiple quotations of *Dies Irae*, a popular chant dating back to the Middle Ages. This medieval religious chant has inspired many consequent works and has been reworked in many ways by multiple composers in different musical eras. It usually stays true to its roots in portraying elements of the supernatural, and fantastic, and depicting the gruesomeness of death and because of its popularity can usually be easily recognized when used. Even if the audience may not be able to recognize the origins of the chant, they are still able to experience the intended emotional experience of the music, which is like the fear that was instilled in churchgoers during the

²⁷ Rose, *Black Noise*, 65.

²⁸ Rose, *Black Noise*, 80.

Middle Ages. Even in a different setting from the traditional sense, the chant can provoke the mood of its medieval text.

Hector Berlioz's *Symphonie fantastique*, composed in 1830, started a new wave of using the Dies Irae chant to illustrate a supernatural experience and deathly creatures. He only uses the sequence in the fifth movement, "Songe d'une nuit du Sabbat" ("Dream of a Witches' Sabbath"). This movement is "frequently explained as a grotesque and symbolic parody of a well-known religious theme meant to shock the audience."²⁹ Berlioz went on to inspire other compositions like Franz Liszt's *Totentanz*, Saint-Saëns's *Danse macabre*, and Nikolai Myaskovsky's *Symphony No. 6 IV* that use Dies Irae similarly. Contrary to many scholarly opinions, like Malcolm Boyd who states, "by a process of gradual assimilation in secular music the terror of Celano's [who wrote the text of the chant] last judgment has become more generalized, and the melody has acquired connotations of malevolence, devilry, and witchcraft which have no place in the original text,"³⁰ the Dies Irae chant has been adapted to fit the purpose of the music at the given era and appeal to its listeners, with the musical fragments not always meaning the same as in the original context.

This example of the evolution of the Dies Irae chant throughout music history is similar to the use of sampling in hip-hop. For many people within the hip-hop community, this technique is recognized for its importance in the genre. With its roots in poor black neighborhoods in New York in the 1970s, the genre allowed individuals in these communities to express themselves and tell stories, often employing funk, soul, and jazz music from the past. In the hands of DJs and producers, sampling functioned as a musical time machine taking old sounds and

²⁹ Erin Brooks, "The Dies Irae ("Day of Wrath") and Totentanz ("Dance of Death"): Medieval Themes Revisited in 19th Century Music and Culture," *Inquiry: The University of Arkansas Undergraduate Research Journal* 4, (2003): 19.

³⁰ Malcom Boyd, "'Dies Irae': Some Recent Manifestations," *Music & Letters* 49, no. 4 (1968): 348.

recontextualizing them in the present. This practice allowed for a tradition of revising black musical styles and commenting on past works and introducing them to new audiences by transcending genres and time. It keeps the legacy of black music alive and pays homage to previous artists who have inspired many in their works, as a “means of archival research, a process of musical and cultural archeology.”³¹ It allows Beyoncé to immortalize Donna Summers, Mario and P. Diddy to commemorate Enya, and for Kanye to honor Shirley Bassey.

Like any of the arts and sciences, sampling involves experimentation. DJs worked with their turntables as if they were playing instruments, trying to figure out how to best extend the “most rhythmically compelling elements in a song, creating a new line composed only of the most climactic point in the ‘original.’”³² As can be observed in the musical examples examined in the previous case studies, hip-hop artists are using samples in unique and fun ways, pushing the boundaries of what is possible and showing the artistry that is involved in making music. Many postmodern scholars celebrate hip-hop’s use of sampling as a “transformative appropriation of older materials,” and scholar Rinaldo Walcott specifically praises sample-based hip-hop for its ability to “invent representations that are excessive and push limits.”³³ By ignoring the technological sampling approaches, as previously described, it is easy to render this technique as an invisible art and not joyfully celebrate it for the creativity it allows musicians to add new works to musical repertoires.

³¹ Rose, *Black Noise*, 79.

³² Rose, *Black Noise*, 74.

³³ Vernon, *Sampling, Biting*, 2.

Chapter 3

The Good, The Bad, and the In-between: Legal, Monetary, and Moral Consequences of Sampling

The Golden Age of sampling was seen as golden because of the lack of legal restrictions that allowed musicians to incorporate pre-existing music into their own music with few legal consequences. This is not to say that there were no issues with borrowing music before sampling copyright law came into place, but they were settled between the respective artists outside of a court setting.

The first lawsuit regarding sample-based hip-hop seen in court occurred in 1991, *Grand Upright Music Ltd. v. Warner Brother Records*. The case involved the defendant, rapper Biz Markie, releasing “Alone Again” without permission to use three words and the piano accompaniment from plaintiff Gilbert O’Sullivan’s song “Alone Again (Naturally)”. Judge Kevin Thomas Duffy found “Biz Markie guilty of infringing on O’Sullivan’s copyright, ordered the rapper to pay \$250,000 in damages, barr[ing] Markie’s label (Warner Brothers) from continuing to sell either the single or album”³⁴ and even going so far as to “advocate [for] criminal prosecution for the theft of the music.”³⁵ There was evidence that Markie and his attorneys knew of their obligation to gain clearance before using the copyrighted work to create a new song, as well as a letter from Markie showing that he knew other sample clearances were pending at the time. His complete disregard for the standard procedure of sample clearance, a process of obtaining permission from the owners of the copyrighted music, was a clear violation of the rights of another artist.

³⁴ Oliver Wang, “20 Years Ago Biz Markie Got the Last Laugh,” *Record*, May 6, 2013, <https://www.npr.org/sections/therecord/2013/05/01/180375856/20-years-ago-biz-markie-got-the-last-laugh>.

³⁵ Amanda Sewell, “How Copyright Affected the Musical Style and Critical Reception of Sample-Based Hip-Hop,” *Journal of Popular Music Studies* 26, no. 2-3 (2014): 296.

Considering the racial politics of the case may provide some context as to the significance of this case as the first legal sampling case taken to court. Before Biz's case with Sullivan, on his 1989 track "Just a Friend," he used a piano loop and song hook borrowed from Freddie Scott's 1968 song "(You) Got What I Need." It is not clear whether this sample was cleared, but there is no evidence of legal action. "The practice of appropriation is an important aspect of African American music... [where] music and words were treated as communal wealth, not private property."³⁶ This reasoning probably explains why previous cases of unlawful sampling practices were settled outside of court, considering that black hip-hop artists often borrowed from other black artists or even those who understood the cultural politics of sampling within hip-hop. It is important for those working within the genre to understand the history and cultural expectations, to avoid such complications between artists.

Another point to consider is the tie that this sample created between Markie and O'Sullivan's songs. Biz, known for his comedic storytelling in his music, "purposely sings the chorus badly and off-key," which may be the reason why his request to O'Sullivan's agent for a sample clearance was denied.³⁷ The decision to bar Biz's track was a conscious one to sever a tie between the two tracks. The original album was pulled and had to be re-released with the offending song cut from the album. Biz, being the comedian he is, released his next album titled *All Samples Cleared!* with the Biz playing the judge and defendant on the album cover.

Although one could argue that sampling is so integral to hip-hop that the practice of borrowing music should not be outlawed, it is important to think about the monetary obligations of those who sample. "Artists who choose to sample works often intuitively feel that they owe

³⁶ McLeod et al., *Creative License*, 48.

³⁷ Victor Li, "(Legal) Career Killers: 'Alone Again' by Biz Markie," *Unknown Caveman Law Writer* (blog), November 18, 2022, <https://victor-li.com/bizmarkie/>.

some compensation to the original artist.”³⁸ MC Hammer, who sampled Rick James’ “Superfreak” on his single “U Can’t Touch This,” is a perfect example. After releasing his song Hammer said “‘hey, I gotta pay Rick James for this.’ [He] did not need a lawyer to tell [him] that... [Hammer was] borrowing enough of [James’] song that he deserves to be compensated.”³⁹ It is clear from examples like this that ethically it is not fair to profit from something without acknowledging contributions from the pre-existing music put out by earlier artists. “Most legal commentators and participants in the music industry agree that artists whose copyrighted musical works are sampled are legally entitled to some compensation and that most unauthorized sampling would be an actionable form of copyright infringement.”⁴⁰ A counterargument to this is the fact that hip-hop culture promotes a community aspect and an artist’s work is not the property of their own, but for all to share once they release it for public consumption. Besides obtaining permission, it is necessary for the artists involved to come to a compromise about fair pay in return for sampling their work. If the sampling artist does not feel that the costs outweigh the benefits, then they should no longer pursue that sample. This will prevent further disputes between musicians and any possible legal actions, which could result in spending more money than would have been requested initially.

According to George Clinton from Funkadelic in response to alleged infringement by N.W.A., “when you sample, make sure that [you know] who’s getting the money. That way you can make sure that the person who wrote it or performed it gets it when you sample each other’s music. Otherwise, somebody else will get it. And that’s the great tragedy of the whole thing.”⁴¹

³⁸ Ronald Gaither, “Chillin’ Effect of Section 506: The Battle over Digital Sampling in Rap Music,” *Vanderbilt Journal of Entertainment & Technology Law* 3, no. 2 (2001): 204

³⁹ Gaither, “Chillin’ Effect of Section 506,” 205.

⁴⁰ The Harvard Law Review Association, “A New Spin on Music Sampling: A Case for Fair Pay,” *Harvard Law Review* 105, no. 3 (1992): 726.

⁴¹ McLeod et al., *Creative License*, 58.

Clinton, like James Brown, is considered an important musical figure who has inspired a variety of pop artists such as Prince and the Red Hot Chili Peppers. His style, which combines soul with synthesizers and energetic bass lines, has resulted in his music being sampled frequently by rap artists, making him the most-sampled artist in that genre. “Use of his work in hundreds of rap and R&B songs since the late ‘80s easily could have meant \$10 million for him...if every performer who lifted a piece of his songs had paid and if the catalog had generated money at the same rate as those of other heavily-sampled artists. Lawyers dueling over the songs say the true figure could hit \$20 million or more.”⁴² If properly respected and acknowledged, Clinton would have generated the record industry’s biggest fortune from sampling. When artists undergo the clearance system, there is meaningful revenue for those who get sampled. In this case, and many others, it is ultimately up to the artist to weigh the costs and benefits of pursuing financial compensation.

Aside from the financial and legal aspects, the moral responsibilities of those sampling are an important consideration. With the existence of documentation technologies, the process of sampling an existing piece of music and creating something new creates an everlasting link between the two. Because it is the decision of the sampling artists to figure out if the two records could work together, it is also their responsibility to respect the pre-existing work. This means not using their music to create something that could damage the reputation and credibility of the other artist or disrespect the artist’s storytelling. To do so, it is up to the musician to do the necessary research and educate themselves so they can be aware of what they are attaching to that work. “The working methods of DJs like Afrika Bambaataa illustrate the analogous

⁴² Jeff Leeds, “Dispute Over Sampling Fees Has George Clinton in a Legal Funk,” *Los Angeles Times*, May 20, 2021, <https://www.latimes.com/archives/la-xpm-2001-may-20-fi-241-story.html>.

relationship between selector and composer, between turntablist and instrumentalist.”⁴³ The connection between the sampling artist and the sampled artist is recognized by other musicians as well as fans who make the connection.

When there is a mutual level of respect between artists, sampling disputes can be handled cordially and do not have to become huge legal issues. This was the case with the multiple copyright infringements that were handled between musicians outside of court after *Grand Upright Music Ltd. v. Warner Brother Records*. An example can be seen in how Kanye West negotiated with Lauryn Hill for the release of his 2004 single “All Falls Down.” Kanye and his record company were in the process of obtaining clearance from Hill’s record company for her vocals from a song line from her MTV *UnPlugged* album in 2002, but it was not clear that they would obtain it in time for the scheduled release of his single. According to Kanye’s manager Hip Hop, Hill liked West’s song but did not want her vocals used on the track, probably because she wasn’t releasing music at the time and didn’t want her voice to blow up on his new track. To work around the issue, “West employed the services of the R&B songstress Syleena Johnson to sing Hill’s part, thus legally bypassing the need to negotiate a master use license for the MTV *UnPlugged* album.”⁴⁴ It is not clear whether Hill permitted this solution, but there was an open line of communication between her and Kanye concerning using her vocals and Kanye was able to release his track without breaking any laws.

Joseph Schloss, a well-respected hip-hop scholar, through ten years of interviewing and working with hip-hop producers, compiled a set of unwritten rules to which producers in the field adhere in their music creation. Some rules including being original and not blatantly copying others; only using vinyl records as a source for sampled material; and not sampling from

⁴³ McLeod et al., *Creative License*, 56.

⁴⁴ McLeod et al., *Creative License*, 171.

other hip-hop records provide guidelines to creatively make music. These standards of ethics are mainly valued within the production world, with no actual reinforcement elsewhere in the hip-hop community beyond criticism from other artists or their audience. Though these rules can be contested and only exist within the moral realm of sampling practice, it seems to be agreed that “the more rules a producer can take on without compromising the quality of the finished product, the greater their skill is seen to be,”⁴⁵ with “the ideal song... be[ing] both ethically correct and pleasing to listen to.”⁴⁶ One who wishes to sample in an artful manner is expected to uphold a certain ethical code, respecting their musical peers.

Sampling is such an integral part of hip-hop and gives artists a chance to show off their skills in creatively transforming music. Ideally, artists should be acknowledged for their foundational contributions and monetarily shown an act of appreciation. However, the legal consequences should not have to deter one from making the music they enjoy making and stifling a culture of commenting on past works. There are many nuances to consider and different opinions across the board, especially in today’s world of capitalist culture, but ultimately sampling is an art and art should not be policed by a society that does not appreciate the importance of the communal commentary that occurs in hip-hop, which contributes to the larger history of the genre.

⁴⁵Joseph Schloss, *Making Beats: The Art of Sample-Based Hip-Hop* (Wesleyan University Press, 2004), 123.

⁴⁶ Schloss, *Making Beats*, 124.

Chapter 4

Case Study #1: Wake Up Mr. West - Kanye West's "Late Registration"

Kanye West, also known as Ye, is one of the most critically acclaimed popular music artists of the 21st century, gaining praise from music critics, fans, and virtually anyone in the musical realm i.e., other musicians. In 2014, *NME* named him the third most influential artist in music, saying "his career's been a lesson in pushing boundaries and setting the agenda."⁴⁷ *Billboard* senior editor Alex Gale states that "[Kanye]'s absolutely one of the best, and you could make the argument for the best artist of the 21st century."⁴⁸ Dave Bry from *Complex Magazine* claims "Kanye West is the most important artist, in any art form, any genre, of the 21st Century."⁴⁹ David Samuels, a writer for *The Atlantic*, writes that his "power resides in his wild creativity and expressiveness, his mastery of form" even going so far as to call him "the Mozart of contemporary American music."⁵⁰ He has inspired many other hip-hop artists including Drake, Lil Uzi Vert, Chance the Rapper, Travis Scott, and many others from various genres, speaking to how far-reaching his influence is. Examining his immense discography and his collection of awards and achievements, including his being listed as the fourth-highest certified artist in the US in terms of digital singles numbered 69 million by the Recording Industry Association of

⁴⁷ Emily Barker, "NME's 100 Most Influential Artists: 50 – 1," *NME* (blog), July 30, 2014, <https://www.nme.com/photos/nme-s-100-most-influential-artists-50-1-1411863#>.

⁴⁸ Patrick Ryan, "Is Kanye West the Greatest Artist of the 21st Century?," *USA Today*, February 9, 2016, <https://www.usatoday.com/story/life/music/2016/02/09/kanye-west-new-album/79814890/>.

⁴⁹ Dave Bry, "Kanye West is the Most Important Artist of the 21st Century," *Complex*, June 18, 2013, <https://www.complex.com/music/2013/06/kanye-west-is-the-most-important-artist-of-the-21st-century>.

⁵⁰ David Samuels, "American Mozart," *Atlantic*, May 2012, <https://www.theatlantic.com/magazine/archive/2012/05/american-mozart/308931/>.

America (RIAA), which represents the music recording industry in the US,⁵¹ it is hard to deny his cultural impact on music.

It is important to note Kanye's roots in making music as a producer before he started rapping himself. West began working on music production in the mid-1990s, starting by making beats for local Chicago artists. He gained his success after working on Jay-Z's 2001 album *the Blueprint* under Roc-A-Fella Records and later producing music for other artists on that label and others.⁵² He ranked third on Billboard's 2000s decade-end list of top 10 producers.⁵³ When Kanye wanted to move into rapping himself, there was not much support from record labels because he did not fit the gangsta rapper image which was typical of artists in hip-hop at the time. "Before he would finally land a deal with Damon Dash and Jay Z's Roc-A-Fella Records, West would be turned down by Def Jam, Arista, and Capitol."⁵⁴ Despite the lack of faith from those around him, Kanye flourished in making music of his own, in addition to producing music for others.

According to WhoSampled, as of the publication of this paper, Kanye West's discography currently contains a total of 1123 samples, with 725 of them listed with him as him in his artist role, i.e., on recordings released under his own name, rather than those he produced for other artists.⁵⁵ He is well recognized for his of sampling material from a diverse range of genres. In his 2010 album *My Beautiful Dark Twisted Fantasy* he samples "from soul (Smokey Robinson in 'Devil in a New Dress') to progressive rock (King Crimson in 'Power') to indie folk (Bon Iver in

⁵¹"Gold & Platinum," RIAA, accessed February 19, 2023, <https://www.riaa.com/gold-platinum/>.

⁵² Al Shipley, "20 Songs You Didn't Know Kanye West Produced," *Rolling Stone* (blog), September 6, 2019, <https://www.rollingstone.com/music/music-lists/20-songs-you-didnt-know-kanye-west-produced-11859/>.

⁵³ "Billboard Charts - Decade-End Producers - Hot 100 Producers," Billboard.biz, accessed February 10, 2023, https://web.archive.org/web/20100213153733/http://www.billboard.biz/bbbiz/charts/decadeendcharts/chart_display.jsp?f=Hot+100+Producers&g=Decade-end+Producers.

⁵⁴ Jean A. Williams, "Kanye West: The Man, the Music, and the Message," *The Black Collegian Online* (blog), June 20, 2008, <https://web.archive.org/web/20150125003250/http://www.blackcollegian.com/kanye-west-the-man-the-music-and-the-message/>.

⁵⁵ "Kanye West," Who Sampled, accessed March 3, 2023, <https://www.whosampled.com/KanyeWest/>.

‘Lost In the World’).”⁵⁶ On this album, like his others, he is able to incorporate music that may not traditionally align with hip-hop and experiment with sounds in a way that holds mainstream appeal. “West’s popularity, and particularly his appeal to those outside of the typical hip-hop community, is not a coincidence. As an artist, West has made a conscious and very deliberate attempt to engage with a socially diverse consumer base.”⁵⁷ With his diverse sampling repertoire, he can capture audiences from a range of musical communities. According to *Time* magazine, West has an intentional desire to not have his music align to just one community, but rather to as many as possible, stating “I want to be all things to all people.”⁵⁸ This intentionality in his work gives his music a purpose and influences how he goes about making that music, often rebelling against traditional hip-hop conventions.

Analyzing West’s second studio album, *Late Registration*, released in 2005, one can see his deliberate musical choices as both a producer and an artist in experimenting with new sounds and incorporating samples not usually used in hip-hop. In an interview with Fader in 2013, West admitted that he “did *The College Dropout* to not only to do music for [him] and to do good music, but to show people possibilities of what could be done. [He] think[s] that’s our responsibility—to be like, fearless, to have the position of the masses’ ear and the radio’s ear and still like, push the envelope equal to like, an indie group.”⁵⁹ On *The College Dropout*, released in 2004, West used sped-up, pitched-up vocal samples from soul records, a style later known as “chipmunk soul,” which later inspired a new generation of hip-hop and resulted in other hip-hop artists imitating this

⁵⁶ Lori Burns, Alyssa Woods, and Marc Lafrance, “Sampling and Storytelling: Kanye West’s Vocal and Sonic Narratives,” in *The Cambridge Companion to the Singer-Songwriter*, ed. Katherine Williams and Justin A. Williams (Cambridge: Cambridge University Press, 2016), 161.

⁵⁷ David Caldwell, “Making Many Meanings in Popular Rap Music,” *Applicable Linguistics*, (2010): 237.

⁵⁸ Josh Tyrangiel, “Why You Can’t Ignore Kanye,” *Time*, August 21, 2005, <https://content.time.com/time/subscriber/article/0,33009,1096499,00.html>.

⁵⁹ “Kanye West Unedited: The Complete FADER Interview,” *FADER*, October 23, 2013, <https://www.thefader.com/2013/10/23/kanye-west-unedited-the-complete-fader-interview-2008>.

sampling style.⁶⁰ West's response to this was to once again experiment and come up with a new sound for *Late Registration* which led to his collaboration with film score composer Jon Brion, who serves as a co-executive producer for several tracks on the album. In addition to the typical soul samples, he incorporated an orchestral component with a 20-piece ensemble, introducing new instrumentation not usually used in hip-hop, including strings, harpsichord, celesta, and Chinese bells.⁶¹

Late Registration features samples from a range of genres including soul, funk, and jazz, paying homage to artists like Ray Charles, Bill Withers, Etta James, and Natalie Cole. To older audiences or even fans of those genres, this album presents a sense of nostalgia, in addition to the classic Kanye West spin. The track "Diamonds From Sierra Leone" is an excellent example of his purposeful production. He samples Shirley Bassey's "Diamonds Are Forever," released in 1971, using her chorus, where she compares the "enduring quality of diamonds... to the fragility of romantic love" to juxtapose his rapped lyrics, which are "a reflection on his financial success and burgeoning career status."⁶²

The track begins with the sampled material from the introduction to Bassey's song, maintaining its majestic texture with the piano melody and her strong vocals. Once West enters with his first chorus, there is a transition, and his vocals are placed more forward with Bassey's vocals positioned further back in the mix. As the song progresses, West experiments with new additions to the instrumentation of a hi-hat groove, deep synthetic bass kick, synthesizer melody, and a high harpsichord sound. Throughout Bassey repeats the line "diamonds are forever" adding

⁶⁰ Brad Callas, "25 Greatest Chipmunk Soul Beats from the Roc-A-Fella Dynasty," DJBooth, February 4, 2019, 25 Greatest Chipmunk Soul Beats from the Roc-A-Fella Dynasty.

⁶¹ Rodrigo Perez, "Kanye's Co-Pilot, Jon Brion, Talks About The Making Of Late Registration," MTV, August 12, 2005, <https://www.mtv.com/news/8h5pof/kanyes-co-pilot-jon-brion-talks-about-the-making-of-late-registration>.

⁶² Burns et al, "Sampling and Storytelling" 162.

an underlying texture upon which he builds with his rapping. By manipulating the original phrase, he can control the intensity of his own chorus, building tension through the harmonic progression, rise in the vocal pitch of Bassey, and instrumentation before resolving before beginning a new verse. With his experience as a hip-hop producer and willingness to try new things, West can use features of the original track as the foundation to build upon with his own dynamic expression to convey his own meaning.

“Gold Digger,” another track on the album, is built on a looped sample of R&B and soul musician Ray Charles’s “I Got a Woman,” released in 1954, focusing on the line “she give me money when I’m in need.” Similar to Bassey’s repetitive loop in “Diamonds From Sierra Leone,” Charles’ line serves as the foundation which West builds upon with his rapping. In the intro of West’s track, Jamie Foxx, who played Charles in the 2004 biopic *Ray*, sings the line that is later repeated throughout the song but to fit the narrative of the song, which discusses the behaviors of a gold-digging woman, replaces “give” with “take.” Charles’ song praises a woman for treating him well and giving him money when in need, but West’s lyric reads “she take my money when I’m in need,” completely reversing the message. The idea to include Foxx in the song came to West after he saw *Ray*.⁶³ Foxx’s manager at the time, Breyon Prescott, managed to get him into a recording session to record the intro for the song.⁶⁴ The reworking of the lyrics with the decision to have Foxx sing the intro is an intentional one that West made with the knowledge of the history of the original song and its artist, which speaks to his creativity as a singer and producer. For fans,

⁶³ Shaheem Reid, “Road To The Grammys: The Making Of Kanye West's 'Gold Digger,’” MTV, February 1, 2006, <https://www.mtv.com/news/q8bcrk/road-to-the-grammys-the-making-of-kanye-wests-gold-digger>.

⁶⁴ SWAY’S UNIVERSE (@SWAYSUNIVERSE1), “Jamie Foxx Tells Amazing Stories About Kanye, Chris Brown, Madonna, Drake, Oprah and Diddy,” YouTube, April 21, 2015, video, 29:32, https://www.youtube.com/watch?v=-UAXs1c9Who&ab_channel=SWAY%27SUNIVERSE.

and music critics, who pay attention to such details, these purposeful connections are important and show the work that the artist puts into maintaining the history behind their samples.

Late Registration won three GRAMMY Awards in 2006: Best Rap Solo Performance for “Gold Digger,” Best Rap Solo for “Diamonds From Sierra Leone,” and Best Rap Album. Ten years later, the Grammys partnered up with WhoSampled to release an infographic to celebrate the album’s anniversary. The infographic “follow[s] the sample connections to explore the musical DNA of one of the most critically acclaimed LPs of the last decade,” allowing people to read about the samples and listen to the sampled material.⁶⁵ This interactive infographic is a prime demonstration of the level of attention to detail Kanye put into the album, which many connections between the samples used on different tracks.

“As a singer and producer, West manipulates his strategically chosen samples to yield new meanings in the domains of lyrics and music, creating complex and multi-dimensional social commentaries.”⁶⁶ Despite the constant experimentation West takes on from album to album, there is one element that remains constant; his use and manipulation of samples from soul records. Time and time again he highlights the repetition of similar events in history, using songs with sociopolitical weight to address his thoughts on America’s current racial and social politics. At the beginning of his career, his sampling “moved from harmonious use (integrating the musical and lyrical content of the original fluidly and multi-dimensionally into his track) to a more fragmented use (where the samples are augmented with added beats and synths, new tonalities, and markedly louder political messaging) as West’s own narrative began to deepen.”⁶⁷ Throughout the

⁶⁵ “The GRAMMYS x WhoSampled ‘Late Registration’ 10th Anniversary Infographic,” WhoSampled, accessed February 7, 2023, <https://www.whosampled.com/grammys-late-registration-infographic/>.

⁶⁶ Burns et al, “Sampling and Storytelling” 169.

⁶⁷ Martin Connor, “The Musical and Sociopolitical Evolution of Kanye’s Use of Soul Music Samples,” *FlyPaper*, August 17, 2017, <https://flypaper.soundfly.com/produce/the-musical-and-sociopolitical-evolution-of-kanyes-use-of-soul-music-samples/>.

development of his music, he continues to use the stories told through the soul-music samples, using them to continue to speak on the stories he tells through his lyrics. No matter how he chooses to align himself with the messages from the music he samples, he always makes sure to choose tracks that intertwine with his music, creating purposeful bonds that speak to the continuity of musical history. By incorporating these samples into his own compositions, he helps to preserve the rich history and diversity of black music.

Chapter 5

Case Study #2: This Sounds Familiar (Reduce, Reuse, Recycle)/ The Sample Heard Around the World - From Enya to Metro Boomin'

As we have seen, sampling allows for the recontextualization of music, enabling it to transcend elements like time and musical genre. It functions in the way of griots in West Africa, sharing and passing down legendary tales through different forms of expression. Perhaps the most recognized examples of griots in modern times are those hailing from Mali, who tell the story of Sundiata, one of the most celebrated African epics in history. Their performances of oral history “are sites of cultural memory,” allowing stories from the past to be told in the present. Often, this oral history was shared musically, with the use of various instrumentation, making griots artists of both storytelling and music.⁶⁸ It works in the style of the Sisterhood of the Traveling Pants, passing around a mysterious pair of pants between a group of friends somehow fitting each of them despite their varying sizes. It’s also like playing a game of hot potato, passing a snippet from person to person, wondering where and who will have their hands on it next. Getting out of the realm of analogies, sampling allows a piece of sonic material from one track to be integrated into another.

How else could you explain a musical snippet from an Irish singer ending up in R&B, Afrobeat, and hip-hop, inserting it into various contexts, and yet unifying this collection of songs? As previously discussed, artists borrow from other artists all the time, but I found the case of the sampling of Enya’s “Boadicea” very interesting because of the different uses and different reactions from the singer herself. In this case study, we will take a look at the linear progression

⁶⁸ John S. Gentile, “Epilogue: The Mythic Storyteller: Word-Power and Ambivalence,” *Storytelling, Self, Society* 7, no.2 (2011): 149.

of an example of musical borrowing that transcends a range of multiple genres, some more closely related than others, but all still related through a melody from a central song.

Enya Patricia Brennan, known musically by her stage name Enya, is an Irish singer-songwriter known for her modern take on Celtic music. O'Reilly, an author, and columnist grew up listening to a lot of Enya because it was a personal favorite of his dad, states that "her music wasn't like anything else [his dad] listened to, but then, it's not much like the music anyone else makes either."⁶⁹ Before venturing out as a solo act, she was a part of her family's Celtic folk band Clannad, but in 1982 she started working with the band's manager-producer Nicky Ryan, and his wife Roma Ryan became Enya's lyricist. As a solo artist, Enya creates a distinctive sound blending Irish folk melodies and elements of classical church music with multitracked vocals and synthesized keyboards, placing her music in a new-age genre of folk and Celtic music compared to her initial influences. Her debut, titled *Enya*, was released in 1987 and later re-released as *The Celts* in 1992. In the initial release, "Boadicea" was track 12 on side two of the album. The song features layered vocals humming accompanied by a synthesized keyboard, with virtually no lyrics.

About a decade after its first release, the Fugees sampled "Boadicea" on their track "Ready or Not" on their album *The Score*, released in 1996. The melody on their track borrows the humming vocal melody from Enya's track which they then loop, slow down, and pitch-shift into a lower register, adding a simple snare beat into the mix. The addition of lyrics, which switch between smooth soulful singing and sharp rapping, gives "Ready or Not" provide a verbal message, unlike the sampled material. The Fugees' version, a mix between hip-hop and rhythm-and-blues, has a different feeling, fitting the "typical" elements of a song, with an intro, verse,

⁶⁹ Seamas O' Reilly, "Who Can Say Why Enya Endures? Only Time," *New York Times Magazine*, September 7, 2021, <https://www.nytimes.com/2021/09/07/magazine/enya-recommendation.html>.

chorus, and outro compared to Enya's, which is more solely instrumental and has mystical and other-worldly feeling created by maintaining a hummed melody.

When Enya and her team caught wind of the Fugees' song, they prepared a lawsuit against the group based on copyright infringement since the Fugees didn't ask for permission or give credit for the sample. Considering that Enya "wasn't featured at all on the credits and it [the sample] was very much a part of the song,"⁷⁰ this was a big issue. Rather than taking the issue to court, the singer reached an agreement with the group after confirming that the message of the song was anti-crime and anti-drug and quite positive. The Fugees paid a fee of about \$3 million and later released copies of the album with stickers on the cover giving Enya credit. At the time, the group claimed they were not aware of clearing samples and the legal aspect of copyright clearance and music publishing. Luckily, it was a lesson that ended up not going as badly as it could have. In an interview with *Forbes* magazine, Enya made it clear that she works with Nicky and Roma in reviewing songs that sample her music and gives approval to songs when they "in some way feel a link between what the song was about and the original song that we had written." This was the case with "Ready or Not" once the Fugees came forward after almost getting sued, and this was also the case with the next song that sampled the melody of "Boadicea."

In 2004, R&B artist Mario Winans released "I Don't Wanna Know," featuring rapper P. Diddy. In addition to the vocals that Enya re-recorded for the track, there is a more pronounced drumbeat compared to the Fugees' "Ready or Not," with piano accompaniment as well. Like the Fugees, this track blends the smooth vocals of former gospel singer Winans and the flowing

⁷⁰ Jimmy Ness, "A Conversation With Enya About Sampling, The Nature Of Fame, And How To Control Your Career," *Forbes*, June 20, 2016, <https://www.forbes.com/sites/passionoftheweiss/2016/06/20/a-conversation-with-nya-about-sampling-the-nature-of-fame-and-how-to-control-your-career/?sh=400762736bcf>.

rapping from Diddy. However, unlike the Fugees, Diddy reached out to Enya’s team about his plans to sample “Boadicea.” Enya’s team agreed it was a great song and gave Diddy the green light. This example differs from the previous example given the vocals were rerecorded, but still constitutes using a sample because the musicians approached Enya intending to use her pre-existing music to create their work. It is not clear whose idea it was to rerecord the vocals, but I assume because she was on board after being presented with the song. Winans and Diddy agreed to give Enya 60 percent of the royalties⁷¹ from the track and included her name on the subtitle of the song listed as “Mario Winans featuring Enya and P. Diddy.” A stark contrast to how the Fugees went about sampling the song, Diddy is a great example of how artists should respect other artists when using their music.

Since then, “Boadicea” has continued to be sampled by multiple artists. In 2019, Nigerian American artist Rotimi released “In My Bed,” featuring rapper Wale, on his album *The Beauty of Becoming*. As on the Winans recording, the Enya sample is accompanied by a drum beat and a mix of R&B vocals and rapping, with an introduction of Afrobeats flavor, characterized by “complex rhythms, heavy percussion, repeating vocals, and Pidgin English,”⁷² which is a part of Rotimi’s distinct style.⁷³ Only three years later, the release of Metro Boomin’s “Creeping,” featuring R&B singer the Weeknd and rapper 21 Savage, on Metro’s album *Heroes & Villains* adds to this sample’s repertoire. Sampling “I Don’t Wanna Know,” this track features lyrics from Winans’s song sung by the Weeknd and a rap verse by 21 Savage. After the release, Winans congratulated Metro by writing on Instagram “this album is a Masterpiece! Grateful to contribute

⁷¹ “P. Diddy and Mario Winans Pay Out for Enya Sample,” *Hot Press*, March 29, 2004, <https://www.hotpress.com/culture/pdiddy-pays-out-for-enya-sample-2719304>.

⁷² Sadof Alexander, “Everything You Need to Know About Afrobeats,” *One*, December 5, 2018, <https://www.one.org/us/blog/everything-you-need-to-know-about-afrobeats/>.

⁷³ Trey Alston, “Rotimi Says ‘In My Bed’ Will Be Responsible For Many Post-Quarantine Babies,” *MTV*, April 17, 2020, <https://www.mtv.com/news/7pgmps/rotimi-in-my-bed-interview-unplugged-sessions-wale>.

on this album with a few records.”⁷⁴ Since it dropped, “Creepin” has received positive feedback and acknowledgment of the sample from critics like Billboard praising Metro for “engag[ing] in some rollicking genre exercises” and calling it a joyful recreation⁷⁵ and Pitchfork celebrating him for “thinking outside the box a bit more, without sacrificing the foundation of what makes his music so appealing in the first place.”⁷⁶

As an Afrobeat fan, when I heard Rotimi’s “In My Bed” I was hooked by the melody and felt a sense of familiarity which I later realized was from thinking about the Fugees’ “Ready or Not.” Then again, with the new release of Metro Boomin’s “Creepin’,” I immediately connected it to Rotimi and the Fugees and in doing a quick Google search remembered Winans’s “I Don’t Wanna Know.” When I eventually realized these songs were all related to the same sample, I was shocked to hear the original song and found joy in re-listening to the previous songs mentioned and hearing how each artist added their own personality to the melody, adapting it into their pre-existing musical style. As Enya said in her Forbes interview in reference to Winans’s song, “you kind of know when it’s working.”

One might question this case study as evidence of the use of sampling to tap into Black culture, considering the long line of black artists sampling this melody from a white artist. Rather than tapping into a black musical history, which is the common path hip-hop artists take when sampling, The Fugees, Winans, Diddy, Metro Booming, and Rotimi, drew from an Irish folk tune. I argue that instead of taking the traditional route to continue a tradition, these artists forge

⁷⁴ Antwane Folk, “The Weeknd Joins Producer Metro Boomin's New Song 'Creepin',” *Rated R&B* (blog), December 2, 2022, <https://ratedrnb.com/2022/12/the-weeknd-joins-producer-metro-boomin-new-song-creepin/>.

⁷⁵ Jason Lipshutz, “First Stream: New Music From RM, Metro Boomin, Lewis Capaldi and More,” *Billboard*, December 2, 2022, <https://www.billboard.com/music/pop/new-music-releases-rm-metro-boomin-lewis-capaldi-1235180105/>.

⁷⁶ Brady Brickner-Wood, “Metro Boomin: Heroes and Villians,” *Pitchfork*, December 8, 2022, <https://pitchfork.com/reviews/albums/metro-boomin-heroes-and-villains/>.

a new vein of musical culture. By creating a sampling train of black artists, they can essentially insert themselves and take over the melody, despite its origins in a non-black culture. It is a common trend for white people to appropriate black culture, but in this example the reverse seems to occur, placing Enya within an established black musical tradition. While Enya's "Boadicea" may not have originated in black musical culture, its use and recontextualization within this tradition demonstrate the ways in which music can transcend boundaries and bring together diverse cultural experiences.

Chapter 6

Case Study #3: Might I Suggest You Don't F*ck With My Sis – Kelis's "Milkshake" vs Beyoncé's "Energy"

The musical focus of this paper is hip-hop but considering that this example is a more modern example than the case studies previously discussed, I felt the need to touch on it. Given that other genres, including house, have roots in sampling this example of Beyoncé's "Energy" is not too far off from the ones previously discussed. As a house album, it is riddled with many samples many of which were more noticeable to fans and critics than others. Ten of the 16 tracks on the album feature samples from "club classics and vintage Memphis rap"⁷⁷ including Donna Summer's "I Feel Love" on track 16 "Summer Renaissance," Right Said Fred's "I'm Too Sexy" on track 3 "Alien Superstar," Robin S's "Show Me Love" on track 6 "Break My Soul," and Kilo Ali's "Cocaine (America Has a Problem)" on track 14 "America Has a Problem." To add to the list Kelis's 2003 hit "Milkshake" is, or at least it was initially, sampled on track 5 "Energy."

This is not Beyoncé's first-time sampling from the Queen of Disco, as the intro of "Naughty Girl" (2003) borrowed the refrain from Summer's "Love to Love You Baby" (1975). In this sampling, Beyoncé maintains a sexual intensity and sensual energy similar to that of Summer's original version. She features moans in the chorus, though not as much as Donna's alleged 22 orgasms on her 17-minute track,⁷⁸ seductive whispering, and even a line "I'm feeling sexy" not so subtly hinting to the sexual nature of the song. Rather than the original funk/disco

⁷⁷ Joe Price, "Here Are All the Songs Sampled on Beyoncé's 'Renaissance' Album," *Complex*, July 29, 2022, <https://www.complex.com/music/beyonce-renaissance-album-samples/>.

⁷⁸ "When Time Magazine Came for Donna Summer and her 'Sex Rock' [EUR Video Throwback]," EURweb (blog), December 29, 2020, <https://eurweb.com/2020/when-time-magazine-came-for-donna-summer-and-her-sex-rock-eur-video-throwback/>.

feel, this new version has more of a pop feel. Donna's song uses classical hallmarks of disco music of the late 70s: synthesizers, a groovy guitar melody, a steady, pulsating drumbeat, and an extended instrumental break, while Beyoncé's has an up-tempo beat, digital instrumentation, and repetitive lyrics typical of an early 2000s pop track. However, despite how one might categorize both songs, the same purpose remains true; a fun track to dance carelessly into the night.

How could "Energy," the shortest song on Beyoncé's *Renaissance* album, cause the biggest controversy? Multiple media outlets, including Page Six, reported on how "Beyoncé subtly removed her sample of Kelis' "Milkshake" from her new song "Energy" after the latter publicly accused her of 'theft.'"⁷⁹ The answer lies in just how iconic Kelis's 3-second "la-la-la-la-la" riff was in R&B and hip-hop of the early 2000s. I remember experiencing this in real-time and seeing the story unfold on Twitter and other social media. The issue with this sample involved a topic previously discussed in Chapter 2, specifically the consequences of obtaining samples without permission or credit to an artist. "Milkshake" was produced by the Neptunes, consisting of Pharrell Williams and Chad Hugo, who were also credited as songwriters. Kelis has been outspoken about the rights of her music and how she felt cheated out of the hit song's profits, alleging that in 2020 "the Neptunes were supposed to split profits with her evenly but failed to do so."⁸⁰ In a legal sense, Beyoncé cleared the sample from "Milkshake" with Pharrell and Chad Hugo, who are credited with the song, but in a moral sense, it might have been better to discuss it with Kelis, especially given her well-known struggle with accreditation on the song.

⁷⁹ Francesca Bacardi, "Beyoncé removes Kelis sample from 'Renaissance' song 'Energy'," *PageSix*, August 3, 2022, <https://pagesix.com/2022/08/03/beyonce-removes-kelis-sample-from-renaissance-song-energy/>.

⁸⁰ Joe Price, "Kelis Claims She and the Neptunes Were Supposed to Split Profits Evenly: 'We Didn't,'" *Complex*, January 30, 2020, <https://www.complex.com/music/2020/01/kelis-the-neptunes-contract>.

In a series of Instagram posts,⁸¹ Kelis made clear her frustration with the whole situation, especially the fact that she heard about the sampling of “her” song on the new Beyoncé track in the same way the rest of the world found out. By not being given a simple heads-up, or asked for permission to sample, she felt a “level of disrespect and utter ignorance of all 3 parties” and rather than being a moment of celebration it was a backstabbing feeling. Fans online, myself included, were excited about this collaboration, but the singer did not see it as such and rather as an act of theft. She pointed out that the sample was not a small part of the song, but rather was the main hook of “Energy.” Although the singer was upset at Beyoncé for not informing her before the release, most of her anger is directed towards Pharrell, who given their history, should have known better.

Kelis started working with the Neptunes with a 1999 album that they entirely produced and continued their collaboration until her third record *Tasty*, released in 2003, which contains “Milkshake.” She entered the partnership with the excitement of musically creative space and the promise that all profits would be split equally among the three artists: Kelis, Pharrell, and Chad Hugo. However, she claimed that the production duo lied and tricked her, excluding her from the revenue of their music. She also claimed that “because of ‘the Neptunes and their management and their lawyers and all that stuff,’ she didn't make any money from her first two records”⁸² and she later regretted signing her contract without fully double-checking it. The contract she signed left her without songwriting credits for her first two albums, which is strange considering record deals usually include a cut for the songwriter. In addition, she wasn’t listed as a writer or producer on most of the tracks, so there was no legal obligation for her to get an even split. Having learned her lesson with the Neptunes, when it came time to work on her third album, she

⁸¹ Kelis (@kelis), Instagram, July 28, 2022, https://www.instagram.com/p/CgkjM6ljP_9/.

⁸² Joe Price, “Kelis Claims She and the Neptunes.”

moved towards working with other producers, which according to Complex, the Neptunes took offense to at the time. She made it clear after then that she would never work with the duo again.

After almost two decades of her working with the Neptunes, the release of “Energy” seemed to rehash some drama from the past. Again, there was potential for a fun, creative collaboration between two iconic Black female artists, which fans could celebrate, without the need for the short-lived drama and internet controversy. Instead, fans online, including “a faction of Beyoncé’s devoted army of fans—collectively called the Beyhive—[who were] not happy”⁸³ took to sharing their own opinions about the situation; debating if Beyoncé was even in the wrong since she didn’t include Kelis’s vocals, or if Kelis was overreacting and should have just been honored to be sampled by Queen Bey or calling Pharrell the real villain in this story. One tweet said, “Kelis could have utilized the moment to gain more traffic her way, instead she throws a jealous filled rant”⁸⁴ and another shared their theory saying, “[they] think Kelis wanted beyoncé (*sic*) to ask her to use the song so she can get an under the table check because Kelis knew she wasn't going to get it legally.”⁸⁵ I think this user hit the mark with their tweet saying “Kelis is not wrong in how she feels or what she says. You can still love Beyoncé (*sic*) and empathize with Kelis and her frustration with how she keeps being treated.”⁸⁶ This opinion speaks to how the situation is not as black and white as it may seem.

⁸³ Ryan Smith, “Kelis Calls Beyoncé’s Fans ‘a Joke’ As They Swarm Her IG After Song Spat,” *Newsweek*, August 4, 2022, <https://www.newsweek.com/kelis-calls-beyonce-fans-joke-they-swarm-her-instagram-energy-sample-milkshake-1730851>.

⁸⁴ EducationLiberation (@EducationLiber1), “@chron Kelis Could Have Utilized the Moment to Gain More Traffic Her Way, Instead She Throws a Jealous Filled Rant. She’s Mad at Beyoncé’s Career. PERIOD!! Don’t Argue with Me. Argue with Your Mammy!! #ISaidWhatISaid #Beyonce”, Twitter, August 2, 2022, <https://twitter.com/EducationLiber1/status/1554663008441438210>.

⁸⁵ GUYUMUASESYTR 🇧🇷 🇳🇮 🇵🇰 🌐 🐘 🐘 🐘 🐘 🐘 🐘 🐘 🐘 (@kaven_Hackgod), “I think Kelis wanted beyoncé to ask her to used the song so she can get an under the table check because Kelis knew she wasn't going to get it legally”, Twitter, August 3, 2022, https://twitter.com/kaven_Hackgod/status/1554830394008039427.

⁸⁶ Terrance (@thunter86), “I mean, Kelis is not wrong in how she feels or what she says. You can still love Beyoncé and empathize with Kelis and her frustration with how she keeps being treated.”, Twitter, July 28, 2022, <https://twitter.com/thunter86/status/1552793501472960513>.

Within the span of one album, Beyoncé was simultaneously being celebrated for her musical homage to the Queen of Disco with her “It’s so good, it’s so good, it’s so good” and dragged for shady disregard of Kelis’s situation with a simple “Ooh, la, la, la.” While Summer died in 2012, Beyoncé paid tribute with “the singer’s verified Instagram page... promoting ‘Renaissance’ in its Instagram story along with two heart emoji.”⁸⁷ With this being her seventh studio album, and with all the years she has been in the music industry, including being a part of the iconic girl group Destiny’s Child, she is not new to the art of sampling and arguably could have handled the situation better. In my opinion, it does not take away from the musical genius of the song but instead questions her morals as an artist, especially given the usual glorification attached to her name and her music. This recent controversy has ultimately started a discussion on the importance of proper credit and acknowledgment in the music industry, particularly for artists who may not possess the same level and influence as Beyoncé.

As an artist, Beyoncé has an extensive history of sampling, and in her newest *Renaissance* album alone, she draws from a variety of artists. The album is a fusion of different musical styles, which have all played important roles in the evolution of black music over the decades. Using her status as a global sensation, she can honor and uplift communities that aren’t recognized as much as they should, namely Black and queer artists. Beyoncé pays homage to these styles while also pushing them forward and adding her own unique voice to the mix, preserving and continuing this important cultural legacy.

⁸⁷ Lindsay Lowe, “Beyoncé’s final ‘Renaissance’ track samples iconic Donna Summer hit,” *Today*, July 29, 2022, <https://www.today.com/popculture/music/beyonce-donna-summer-renaissance-sample-lyrics-meaning-rcna40611>.

Conclusion

Hip-hop has an “open source” culture which is crucial to its aesthetics, encouraging the flow of ideas between artists within the genre and even those beyond. Unlike other “open source” genres, hip-hop differentiates itself on “the sheer density and variety of intertextualities” resulting from its sampling culture.⁸⁸ It is not always apparent, especially when considering the emphasis on obeying copyright laws, but the idea of a communal setting does not negate instances of seeking compensation, whether that be recognition from others or monetary funds.

Perhaps, there is a need to rephrase this idea of an “open-source” culture as a “creative commons,” meaning that anyone is able to use the work as long as they give credit where it is due. There are differing opinions on whether artists should be paid for their work to be used by others, but there seems to be a consensus that proper acknowledgment is provided. The term “ShareAlike” is a copyright license that places derivative work under the same license terms as the original work, allowing for the digital commons’ growth over time. In relation to hip-hop, this refers to the links that are created when one artist samples another, with proper attribution to pre-existing works but allowing for communal ownership. For example, Enya’s “Boadicea,” Mario Winans and P. Diddy’s “I Don’t Wanna Know,” and Metro Boomin’s “Creepin’” would be under one ShareAlike license, given they continue to build upon each other originating from Enya’s work. While sampling can be a powerful tool for creating new music, it is important for artists to understand the legal and ethical implications of their actions and to obtain permission or use appropriate licensing where necessary.

⁸⁸ Williams, *Rhymin' and stealin'*, 167.

Ingrid Monson, a jazz scholar, and ethnomusicologist developed the concept of intermusicality, particularly in jazz, to describe the interactive and communal properties of improvisation in the musical culture. It functions like intertextuality, defined by Merriam-Webster as “the complex interrelationship between a text and other texts taken as basic to the creation or interpretation of the text”⁸⁹ within the context of sound. In studying intermusicality in jazz, Monson’s focus is on “the musical quotation..., which embodies the conflict between innovation and tradition in jazz performance,”⁹⁰ which I argue, functions similarly to the practice of sampling in hip-hop. Like intermusicality in jazz, sampling allows for the “transformation of existing genres... [which] is also a well-known feature of African American musical expression,”⁹¹ and recontextualization to fit new narratives. The ongoing debate about whether sampling is theft or validating it as a creative process often distracts audiences from what they should take away from its use in musical works. The focus should be on connections between the pre-existing and new works, and how these connections continue the history of hip-hop, while simultaneously bridging gaps between genres that otherwise would have never occurred.

Sampling as a creative process reframes a piece of music and creates an everlasting link between the sampled music and the sampler. It adds to the history of a piece, allowing it to transcend its original time and immortalize it. It is also up to the intentions of those sampling as to how much, or little, they want to recognize the original work. A respectable musician would want to honor another musician and ensure they are given their roses in this new work. As creatives, it is important to pay tribute to those who came before us, even those we may not be directly tied to in terms of music. Cross-genre sampling also creates a spider web connecting

⁸⁹ “Intertextuality,” Merriam-Webster, March 11, 2023, <https://www.merriam-webster.com/dictionary/intertextuality>.

⁹⁰ Ingrid Monson, *Saying Something: Jazz Improvisation and Interaction* (The University of Chicago Press, 1996), 97.

⁹¹ Monson, *Saying Something*, 104.

pieces of music that may have never been connected otherwise. It helps blur the lines of categories and genres in showing how all music can work together and does not only have to be taken at its original face value. Sampling allows musicians to break boundaries and blend audiences, genres, and influences into a single work of art. Within the community, the ability to be able to take preexisting material and transform it into something new is highly celebrated and respected. Despite this, sampling in hip-hop can have legal, ethical, and creative dangers that should be considered by artists and music industry professionals.

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