

Plagiarism in Music

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Music and commerce are two important realms of modern show business which ensure the protection of assets and provide steady income. In the pursuit of fame and financial well-being, some artists steal original ideas, motives, or melodies from their colleagues or famous singers of the past, providing grounds for being accused of music plagiarism. Music plagiarism is a false claim of authorship that is also understood as a theft of intellectual property. Identifying music plagiarism is a fairly complicated task for copyright law because musical similarity can be explained as coincidence or influence as well. However, world music history includes many famous cases of alleged music plagiarism, involving Queen, Metallica, Taylor Swift, Shakira, and many other musical bands and singers. Therefore, plagiarism in music is a risky activity for modern performers, since the slightest musical similarity that is proven to be non-coincidental music plagiarism entails economic consequences.

Identifying music plagiarism constitutes a challenge for copyright law because there is a blurred line between coincidence, influence, and wrongful appropriation or plagiarism. Since many artists use similar chord combinations in their music, some songs sound similar by coincidence. Coincidence works as a legitimate explanation to musical similarity if only one aspect of a musical work resembles another work (Stav, 2014). Frequently, composers take some fragments of ideas belonging to other artists and synthesize them in a new, original expression. In this case, the similarity to the sources of influence is legitimate to a full extent (Stav, 2014). Once plagiarism is detected, musical similarity loses its legitimacy, and the case enters the domain of copyright infringement. However, it is difficult to distinguish one situation from another due to the thin line between them, and artists often take advantage of this gap in the law.

The infringement of the right to intellectual property was the central issue in the 1990 *Vanilla Ice v. Queen and David Bowie* case. A major musician of the 1990s, Vanilla Ice was accused of music plagiarism in his song “Ice Ice Baby” that greatly resembled another song titled “Under Pressure” performed by Queen and David Bowie in 1982 (Deekshitha, 2016). Songwriters and composers recognized the iconic bass line Vanilla Ice used in his song (Deekshitha, 2016). However, Vanilla Ice filed the lawsuit first because he wanted to turn the issue into a joke, but music plagiarism was proven, and Vanilla ice was banned from using the stolen song and was charged with an undisclosed sum of money. The provided case demonstrates that copyright infringement is not only an unethical behavior but also an intellectual property law violation that results in deprived rights and financial losses.

Undoubtedly, *Metallica v. Napster* (2000) was a landmark case in the history of music because it showed that the music industry was unprepared for technological advancement. A well-known American heavy metal band, Metallica, brought a lawsuit against the global music file-sharing service, Napster, after finding out that the entire catalog of the band was available on its platform (Alatorre, Huang & Rigel, 2017). Metallica sought \$10 million in damages and revealed a list of users who downloaded music illegally, and their accounts were eventually blocked (Alatorre, Huang & Rigel, 2017). Although Metallica did not get that sum of money because the company was declared bankrupt, this case shows that the exclusive right of authors to use their work, gain profit from it, and be credited for it should have been respected, and the copyright law should have been obeyed (Stav, 2014). Nowadays, the music industry is well-adjusted to the digital age, and artists are ready to defend the worth of their original ideas.

In 2014, a Colombian singer, Shakira, was accused of music plagiarism when her Spanish-language song “Loca” appeared similar to “Loca con su Tiguer,” composed by Ramon

Vasquez in the 1990s, in structure and rhythm. The U.S. District Court for the Southern District of New York ruled that Shakira's song was a copy of Vasquez's musical piece, and her distributors should pay damages to the owner of the rights to Vasquez's song, Mayimba Music (Chung, 2015). The issue of stealing creative property is not a brand new notion for the modern world, but reusing someone else's material explicitly without acknowledging the true authorship is a sign of unethical behavior. As a result, commerce and music, becoming two interdependent realms, have created more space for music plagiarism.

In 2018, Radiohead, a popular English rock band, filed a lawsuit against a prominent American singer, Lana Del Rey, accusing her of copyright infringement. According to Radiohead's claims, Lana Del Rey's track "Get Free" is highly similar to the band's hit "Creep" in the context of melody (Savage, 2018). Although the case has remained unresolved, Radiohead hopes to receive compensation or at least be credited on the list of songwriters to receive royalties (Savage, 2018). According to copyright law, royalties are tangible benefits of original authors derived from their creative work (Stav, 2014). The economic right of Radiohead is to receive all the benefits that come from their intellectual property. As the story shows, artists are not afraid of using other's creative property explicitly without acknowledging the original author; this tendency makes the world of show business more tricky and problematic.

Considering major theoretical underpinnings, melody, harmony, and rhythm are the core dimensions of a musical piece that should be original in every song. Melody is a repetitive sequence of notes that determine the main theme of a song (Stav, 2014). Harmony is a specific set of chords that accompany the song's melody, while rhythm is the combination of the count, tempo, and beat comprising the structural base (Stav, 2014). However, in most cases, plagiarism lawsuits are based on similarity in the song's melody, while claims related to similarity in its

harmony or rhythm happen rarely. Hence, melody and sampling are two contexts in which music plagiarism occurs. In the context of melody, a plagiarizer uses the musical idea or the main motif of someone else's work, whereas, in the context of sampling, a plagiarizer takes a portion of other work's sound recording in a new song.

However, a great number of unsuccessful music plagiarism lawsuits reveals the fact that it is often difficult to prove the occurrence of plagiarism in music. For example, in 2014, in *Braham v. Sony Music Publishing* case, an American R&B singer, Jesse Braham, sued a popular American singer, Taylor Swift, for \$42 million. Jesse Braham alleged that Taylor Swift plagiarized his track "Haters Gone Hate" in her musical piece "Shake It Off" when she used his lyrical phrase "Haters gonna hate, hate, hate, hate, hate, hate ..." as "Players gonna play, play, play, play, play, play ..." ("Case 2:15-cv-08422-MWF-GJS(pp. 1-12, Rep. No. 8)," 2015). Although musical experts stated that Swift used a similar sampling in her song, the judge did not manage to distinguish between music plagiarism and coincidental similarity. As such, the court dismissed the copyright lawsuit, and the act of plagiarizing was not recognized. The case demonstrates that a blurred line between coincidence, influence, and wrongful appropriation or plagiarism complicates the investigation process and sometimes prevents the court from identifying plagiarism in music.

Consequently, in the modern technological world, music plagiarism is a frequent phenomenon, since piracy is prospering, and many artists are using parts of others' musical pieces in an unauthorized way. Plagiarism occurs in two contexts that make plagiarized parts more recognizable, including melody as the main motif of music and sampling as unique sound recording. Although musical talent is not for sale, composers and songwriters continue to defend their rights to the intellectual property they created. Since coincidence and influence come along

with plagiarism as legitimate explanations to musical similarity, it poses a challenge to the original authors to prove that their copyright was infringed. Even though the court often rules that a plagiarizer should reimburse all tangible benefits to the original author, in some cases, the thief is not recognized to be guilty of copyright infringement. Regardless of the economic consequences resulting from plagiarizing others' musical works, various performers still engage in unlawful and unethical behavior to create a new song based on a well-known motif.

Plagiarism in music has not ever brought good fame and fortune to a singer, whereas originality and integrity in show business are valuable attributes of musical performers.

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