



## Was Foucault a plagiarist? Hip-hop sampling and academic citation

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### Abstract

This article argues that comparing academic citation and hip-hop sampling can help students become better users of sourcework. I contend that sampling and academic writing share a goal of building new work in response to existing sources and that this goal is obscured by lawsuits that reduce sampling to theft by applying to sound a copyright regulation system designed for print. Both sampling and citing seek to build new compositions by working from sources, yet academic citation systems preserve textual ownership through attribution while sampling often guards or disguises its sources. These different stances in regard to authorship and ownership belie the values shared by the two systems.

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*Sometimes I quote someone without using quotation marks or a footnote to give the name of the source. It seems like I'm just supposed to prove I've read this famous scholar, and I say why should I have to put quotes around it if you can't even recognize who it comes from?*

The passage above seems to undermine so much of what we teach about academic writing. It is paraphrased, not from a conversation with a student, but from an interview with **Michel Foucault (1980)** where he described his citation practices in regard to Marx and Marxism:

I often quote concepts, texts and phrases from Marx, but without feeling obliged to add the authenticating label of a footnote with a laudatory phrase to accompany the quotation. As long as one does that, one is regarded as someone who knows and reveres Marx, and will be suitably honoured in the so-called Marxist journals. But I quote Marx without saying so, without quotation marks, and because people are incapable of recognising Marx's texts I am thought to be someone who doesn't quote Marx. When a physicist writes a work of physics, does he feel it necessary to quote Newton and Einstein? He uses them, but he doesn't need the quotation marks, the footnote and the eulogistic comment to prove how completely he is being faithful to the master's thought. (p. 52)

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Foucault indicated distinctions between citation versus use and quoting versus attribution, which highlight the reverence that often accompanies source use in academic citation systems. Foucault avoided attributing ideas to Marx, yet he built his own work from these ideas. Foucault's citation process fits with his notion that the author is a product of capitalism. In his influential essay "What is an Author?" Foucault (2003) argued that the author-figure is tied to an individualization of ideas and to the concept of private property because authorship functions to brand works with the name of their author. Foucault did not apologize for using Marx's work separate from his name but instead faults his reader for not being able to recognize the text separate from the label or brand of Marx.

In the precapitalist societies Foucault described in "What is an Author?", discourse was not a product but an act. With capitalism came intellectual property guidelines that necessitated an author's proving ownership of his or her work. Foucault's understanding of the author as a function of ownership and his connecting of authorship to copyright laws (p. 125) are important in order to understand hip-hop sampling, which over the past 25 years has complicated copyright laws designed for the printed word. Thomas Schumaker (1995) and Thomas Porcello (1991) cited Foucault (his name *and* ideas) in their studies of sampling. Schumaker argued that songs built from samples are not granted an author-function (p. 180), and Porcello used Foucault's theory to outline the shortcomings of copyright systems (p. 77); he found sampling to resist capitalist notions of property through its "previously tabooed modes of citation" (p. 69). Geoffrey Sirc (2002) also acknowledged sampling's outlaw style of citation when he argued that sampling

marks a new way of seeing citational writing, one that moves away from a sterile sort of obeisant prose to a material appropriation of sources for one's own personal mix, weaving references in more boldly, taking them over, distorting them, wringing new truth and meaning out of them, not revering or enshrining them.

When hip-hop producers sample, they insert segments of recorded music into their own song, often truncating the sample to extract its most useful section, syncopating the sample to fit a new rhythm, and looping the sample so that the segment, which may have appeared once in the original recording, repeats throughout the entirety of the new song. Samples may be music or vocals from other songs or may be borrowed from nonmusical sources such as films, political speeches, or television commercials. Hip-hop values creativity in finding unique sources, recombining unlikely sources, and putting recognizable material into new contexts. By recombining and recontextualizing sources, hip-hop producers create powerful juxtapositions. GM Grimm, for example, samples the line "those were the days" from the Adams and Strouse (1971) theme song to the sitcom, *All in the Family*, and makes it the refrain for "Digital Tears," a song about his experiences as a black man who sold drugs, was paralyzed in a shootout, and spent years in prison. The line "those were the days" feeds into Grimm's own lyrics, "We did not know no better/We thought we'd live forever," juxtaposing his social struggle with a theme song from a show about a white American bigot. The fact that the theme song's original lyrics contained the lines "didn't need no welfare states/everybody pulled his weight" only adds to the impact of Grimm's recontextualization of its refrain into a story about crime, drugs, prison, and desperation. Like academic writing, hip-hop sampling requires more than cutting and pasting existing material. Sampling, at its best, uses sources to create new meaning.

Sampling, as in the above example, often comments on and critiques sources through juxtaposition. My goal in this article is to juxtapose sampling with academic citation to determine their shared values of responding to sources. I interrogate the values of sampling and citing and juxtapose sampling lawsuits with a recent plagiarism case where “sampling” was invoked in defense of a collection of short stories that borrowed text from an earlier book without attributing the material to its author. Because sound and print are often compared to each other in cases of plagiarism or copyright violation, it is important to understand where sampling and academic writing differ in goals and aesthetics. I believe that to equate sampling with plagiarism ignores the ways that sampling transforms, critiques, and responds to sources, which is exactly what I want students to do in their writing. At the same time, however, I want students to recognize and examine the key differences in attribution in sampling and academic citation systems. In academic writing, listing sources builds one’s credibility as an author who reads widely and understands the current conversation surrounding her topic, but hip-hop producers often guard or disguise their sources to avoid copyright litigation or to protect their style from imitation by other artists. In sampling, one’s credibility is built from discovering unused material, and to reveal sources is to give away the secrets of the trade. This key difference between sampling and citing provides rich ground for students to examine the values of these two different systems of sourcework. What follows is my own comparison of sampling and academic writing, which models the type of inquiry in which writing teachers might engage their students. In examining the systems of sampling and academic writing, I draw from sources ranging from my interview with hip-hop producer **Count Bass D** to **Robert Connors’ (1999)** rhetoric of citation systems and **Sirc’s (2002)** theories of hip-hop composition. Working from these sources, I argue that although sampling often opposes academic writing’s emphasis on attribution, it accomplishes many of the same goals in responding to sources. Therefore, prompting students to examine and understand hip-hop sampling can help them become better users of sources in academic papers.

## **1. Sampling is not plagiarism**

Because I believe that studying hip-hop sampling can help students better understand their own citation practices, I often include a unit on sampling when I teach academic writing. When I introduce this unit, my students tend to equate sampling with plagiarism and theft. Several colleagues also have expressed their confusion about my comparing sampling to anything other than plagiarism. The stigma of sampling as theft overshadows the role of sampling as a citation system where sources are transformed for new use. This negative view of sampling finds its roots in the court cases that applied to hip-hop music a copyright system designed for print. In 1991, Judge **Kevin Thomas Duffy**—in granting a preliminary injunction against rap artist **Biz Markie**, who sampled **Gilbert O’Sullivan’s** “Alone Again (Naturally)” —invoked the biblical commandment “thou shalt not steal.” Yet Biz’s own lyrics, when juxtaposed with the music and chorus of O’Sullivan’s original song, created irony. Under section 107 of the U.S. Copyright Law, Biz’s song should have been protected as a parodic commentary on O’Sullivan’s song. Such court cases highlight the limits that copyright litigation can place on new sound compositions. In 1994, the U.S. Supreme Court (**Campbell vs. Acuff-Rose**

Music, Inc., 1994) held that 2 Live Crew’s “Pretty Woman” was protected as a parody of Roy Orbison’s “Oh, Pretty Woman,” and that even though 2 Live Crew’s song was a commercial release, Orbison was not entitled to royalties. The Supreme Court held that:

The more transformative the new work, the less will be the significance of other factors, like commercialism, that may weigh against a finding of fair use. The heart of any parodist’s claim to quote from existing material is the use of some elements of a prior author’s composition to create a new one that, at least in part, comments on that author’s work.

Sampling transforms sources by placing them in the new context of hip-hop lyrics and other samples. Rather than copying the original source, hip-hop producers critique and respond to the original through juxtaposition, parody, and direct commentary.

Sampling, therefore, is like academic citation systems in that it builds upon existing texts by making new connections and responding to them with new ideas. Yet sampling differs from academic citation systems that require attribution via footnotes or a list of references. There is no MLA or APA style handbook for sampling, but Joseph G. Schloss (2004) outlined an ethics and aesthetics that many hip-hop producers share. Schloss, in writing *Making Beats*, the first book-length study of hip-hop’s musical productions, interviewed several hip-hop artists about their approaches to making music. His interviews revealed that the musicians were concerned both with discovering unique material and with using it in unique ways. Hip-hop producers sample small segments of records, then often change the pitch, slow them down, speed them up, and combine them with pieces of other recordings. Just as Foucault believed he could build from Marx’s ideas without providing an in-text citation to attribute those ideas to Marx, hip-hop producers build from the work of musicians such as Prince, James Brown, or Parliament Funkadelic without necessarily listing those musicians’ names in their lyrics or liner notes. Schloss outlined a professional ethics of digital sampling by which producers avoid copyright litigation from record companies by not attributing samples or disguising them by altering their original sound. Likewise, producers guard their source material from “biters,” whom Schloss’s defined as those producers who “sample material that has recently been used by someone else” (p. 105). Producer Jake One complained that biting devalues the time hip-hop producers spend searching for unique source material (p. 120). This notion of guarding one’s source seems foreign to academic writing where we rely on an open network of information and even gain credibility by connecting our ideas to a tradition of thought. Yet Foucault, like the hip-hop producers in Schloss’ study, was concerned less with preserving the name of the source’s author than with building a new composition in response to the source.

The problem with Foucault’s approach to citation, of course, is that without his attributing the source material, even expert readers may find it difficult to separate Foucault’s own ideas from Marx’s or to determine where the two diverge. This problem would prove especially tricky for the writing student who doesn’t hold Foucault’s prestige in her teacher’s mind and who wants to avoid at all costs an accusation of plagiarism. Reverence to Marx aside, the issue is whether readers can distinguish Foucault’s new ideas from his reference to another source or distinguish Marx’s voice from Foucault’s. Without quotation marks or in-text citations, how do we know which part is Foucault and which is the source? Sampling, on the other hand, allows listeners to *hear* source material in a way that is unavailable to writing. I can hear that GM Grimm’s voice sounds different from *All in the Family*’s Edith Bunker. Because I know

that hip-hop is sample-based music, when I hear a Jay-Z song on the radio, I don't marvel at Jay-Z's skills as a drummer and bassist. I know I am listening to Jay's voice over sampled music. In fact, sampled music is so standard for hip-hop that [RZA \(2004\)](#) from Wu-Tang Clan reported that listeners often mistake for samples the organ and piano that he played himself on Wu-Tang's first album (p. 191). When I listen to hip-hop, I expect to hear songs built from multiple sources. Hip-hop producers don't try to pretend that they wrote or performed all the sounds on their records but instead pride themselves on their unique recombination of sources within a new composition.

The obscurity of much of the material hip-hop samples fosters a new aesthetics of citation, one based on discovery of unique sources and putting recognizable sources to new use. Of course, not all hip-hop producers embrace this aesthetic, and, in fact, many of hip-hop's crossover hits heard on mainstream radio deviate from this modernist make-it-new aesthetic to produce songs that are much more derivative of past radio hits—this is a proven pop-rap formula. Sampling hit songs is a marketable, yet contentious, practice. Pop-rap producer [Puff Daddy](#) has sampled recognizable and sizeable pieces of rock and pop hits such as [The Police's](#) "Every Breath You Take," for "I'll Be Missin You," and [Led Zeppelin's](#) "Kashmir," for "Come with Me." Even with these songs, however, this example of sampling is not plagiarism. Puff Daddy's record label paid for the use of these recordings, and members of The Police and Led Zeppelin have shown their approval by performing these songs with Puff Daddy in concert.

Puff Daddy isn't plagiarizing, but other hip-hop producers might argue that he isn't sampling either. Underground hip-hop producer MF DOOM, for example, criticized such sampling practices on "Hey" (2000) when he said, "I heard beats that sound like karaoke," meaning that a beat, or the music to a hip-hop track, should be an original composition that doesn't copy another song's structure. Producers like DOOM value the discovery and digital manipulation of multiple sounds from multiple sources rather than the use of pop hits intact. Several producers boast in lyrics about the time they spend digging in the crates in record stores for obscure material and resent artists like Puff Daddy for giving sampling a bad name. One group calls itself D.I.T.C, the Diggin' in the Crates Crew, and the Lootpack released the song "Crate Diggin," in which they claimed that hip-hop producers are "searching for the unordinary sounding loop" that they can put to use in a hip-hop track. In short, the responsible hip-hop producer must create original new compositions even if these are built from pieces of several existing recordings. If responsible sampling hinges on doing something new with the source material, it comes to look less like plagiarism and more like citation.

In his history of citation systems, [Robert Connors \(1999\)](#) described the restrictive nature of systematic citation formats such as MLA and APA, which he says are adopted at the cost of "readability and prose style" (p. 239). Connors argued that these systems were developed to showcase the author's knowledge of related texts and to allow the author to speak to those texts he or she "embraces or rejects" (p. 219). Footnotes function to "show off the author's wide reading or membership in a discourse community" (p. 219) and to build upon the work of other scholars (p. 238). Connors noted that citations can attest to the expertise of an author by connecting the author to a tradition of thought or a body of thinkers. As I discussed earlier, [Foucault \(1980\)](#) said he never felt obligated, when citing Marx, to add the "authenticating label of a footnote" (p. 52). Foucault's use of "authenticating" takes on two meanings: Attribution can authenticate the quotation as Marx and authenticate the writer as a Marxist scholar. In

the first sense, attribution of a quotation provides readers with a link to the original source by naming its author and showcasing that author as an expert. In certain hip-hop songs, MCs (rap vocalists) use their lyrics to attribute a sample. For instance, Defari's "Keep it on the Rise" samples B-Real's vocals from Cypress Hill's "Hole in your Head," and Defari's lyrics attribute the quote to B-Real:

Defari vocals: "I got the phunky feel like B-Real. I'll put a"

B-Real sample: "hole in your head"

Defari vocals: "with the pure raw skill."

As Schloss (2004) illustrated, it is rare for a hip-hop artist to so directly attribute a sample to its author. In Defari's song, sampling works very much like quoting: He uses his own language to introduce and attribute the quote and then pares it down to the most essential words. Defari's new composition enters into dialogue with the source, and it is important to preserve or capture the source's voice through a quote or, in this case, a sample. Importantly, Defari credits B-Real, another hip-hop star, in his lyrics, yet he never mentions the musicians who composed and performed the instrumental sounds from which his song is built. In quoting B-Real, Defari shows himself to be part of hip-hop's discourse community just as LL Cool J does in "The Boomin' System," where he cites old school rappers like Big Daddy Kane, Eric B and Rakim, and EPMD, in lines such as "Like Rakim said, I wanna move the crowd." In short, because LL and Defari are making hip-hop music, it is important for them to show their awareness of hip-hop's lyrical history. To look at these songs through Connors' theory, Defari and LL are showing off their wide reading (or listening) and using samples to speak to texts that they embrace.

Foucault's second sense of authentication—that of supplying credibility to an author within a particular field of study—popular music, and hip-hop in particular, has a long history related to authentication as proving credibility. Edward G. Armstrong's (2004) study of the authenticating strategies of Eminem, for example, described the importance of Eminem's links to "an original source of rap" (pp. 7–8) through his work with Dr. Dre. Dre pioneered the West Coast gangsta-rap sound in the 1980s, produced Eminem's albums, and performed with him on stage. Dre's sponsorship and collaboration authenticate Eminem to listeners who doubt the credibility of white hip-hop artists (see Armstrong; Hess, 2005). Like the way Dre's collaboration authenticates Eminem, sampling can take on an authenticating function as rap artists use samples to establish their connections to an original source of hip-hop. By sampling an MC's voice, they can link themselves to a tradition much in the way scholars link themselves to Marx's thought. For instance, musicians might add the authenticating label of a vocal sample from Rakim (whom *The Source* named as the top MC in history) without stating Rakim's name in their lyrics; an ideal listener should be able to recognize Rakim's voice, just as Foucault's ideal reader should be able to recognize Marx's words.

The strongest connection between sampling and academic writing is the requirement to work from sources. Hip-hop is sample-based music. Academic authors are concerned with contributing to an existing body of thought, which requires speaking to widely cited texts and ideas but also reassessing these ideas, applying them to new subjects in new ways, and recovering lesser-known texts to bring into discussions. *PMLA* regularly features a "Little

Known Documents” section that includes introductions by the scholars who discovered or recovered the texts. Academic writing, therefore, requires a balance between the old and the new, between connecting one’s work to broader discussions and traditions and contributing new ideas to those discussions and challenging those traditions. As widely cited ideas from scholars like Marx or Foucault become known due to the frequency of their use, new writers return to those authors to discover material that is untapped or that can be used in a new way or extended to a new audience. In thinking about my own process of writing this article, I realize I’m not the first to use Foucault’s statement about his citation practices. Thomas Lemke (2000), for one, used it in his study of Foucault’s focus on the problem of government. Yet I find myself using this Foucault quotation in a very different way than Lemke and to prove a very different point. The aspect I most appreciate about academic writing is its ability to transform ideas by taking them to new places. Foucault wasn’t talking about hip-hop, but I can use his ideas to help illuminate important issues in this music genre. Through textual revision, recombination, and juxtaposition, hip-hop sampling holds this same transformative power.

## 2. Sampling’s aesthetics of textual revision

I am describing sampling in terms of academic writing, but the phenomena of texts speaking to texts has a deeper history within African-American discourse and the tradition of Signifying. Henry Louis Gates (1988), in *The Signifyin(g) Monkey*, defined *Signifying* as “a metaphor for textual revision” through repetition and recontextualization (p. 88), and he interrogated a history of African-American literature in which authors such as Ishmael Reed Signify upon the work of other authors. Reed himself said that his “gumbo style” or his “mixing and sampling” technique “might be the constant in African American culture, that of making something whole from scraps” (p. xiv). Extending this tradition to the hip-hop producers who use digital sampling to reassemble pieces of existing recordings, Paul Gilroy (1993) explained that “the aesthetic rules which govern [sampling] are premised on a dialectic of rescuing appropriation and recombination” (p. 104). Porcello (1991) recalled Gilroy in his definition of sampling’s capabilities of “the mimetic/reproductive, the manipulative, and the extractive” (p. 69). Each of these capabilities relies on context. A mimetic/reproductive parody, like 2 Live Crew’s “Pretty Woman,” can rely on the repetition, in new context, of key elements from the original song. The manipulative capability is illustrated in Kanye West’s sampling of Chaka Khan’s line “through the fire,” which he sped up and manipulated to say “through the wire” for his hit single “Through the Wire.” The extractive power of sampling is revealed in the Beastie Boys’ “Hello Brooklyn” where the line “I shot a man in Brooklyn” is followed by the Johnny Cash sample “just to watch him die.” In extracting just these five words from Cash’s “Folsom Prison Blues,” the Beastie Boys changed the setting from Reno to Brooklyn and removed the context of consequences and regret from Cash’s original murder ballad. In each of these examples, sampling transforms the original by placing it in new context.

Sampling’s textual revision extends the tradition of Signifying in that hip-hop as an aural form allows the listener to hear the original in new context, often digitally manipulated to fit a new rhythm or even given a new tone to match its desired usage. While the history of Signifying provides important context for the advent of sampling, I wanted to better understand

sampling's unique aesthetics of textual revision, specifically what it can do via sound that cannot be done in print or oral storytelling. I interviewed Count Bass D, a Nashville-based hip-hop artist, who is uniquely positioned to discuss sampling: His debut album, *Pre-Life Crisis* (1995) was celebrated by critics in *Rolling Stone* and *The Source* for his use of traditional instrumentation rather than samples. A self-trained musician, Count played every instrument on his debut album. Yet, after earning warm critical reception for his instrumentation, Count felt he had to learn sampling in order to prove himself to other hip-hop artists: "Everybody was kind of looking at me like, well that's great that you can play an instrument or whatnot, but it means nothing unless you can actually make a beat too." Making beats via samplers and drum machines is so central to the production of hip-hop music that making a live instrument album can call into question an artist's authenticity and raise questions of audience and reception:

The purists want to keep hip-hop for themselves. They're afraid the machine is gonna get it. And the machine, by praising me they were tearing down all the other artists and saying what they did was nonsense, when nothing could be further from the truth.

In response to this pressure to prove himself as a hip-hop artist, Count taught himself to use a sampler for his 2002 album *Dwight Spitz* where his textual revision is most evident in two songs: "Truth to Light" and "Just Say No."

"Truth to Light" begins with the correction of another artist, Greg Nice of the group Nice & Smooth. Nice's opening verse from "Funky for You" contains the misinformation "Dizzy Gillespie plays the sax," and Count revises this statement through use of Nice's vocals. Like Defari in my earlier example, Count attributes his sample and opens "Truth to Light" with a sample of Greg Nice saying his own name, "Nice," and then sets up the vocal sample with his own lyrics:

Greg Nice sample: "Nice"

Count Bass D vocals: "Lester Young was on the tip of his tongue when he said"

Greg Nice sample: "Hey yo Dizzy Gillespie"

Count Bass D vocals: "played the trumpet."

In tying these lyrics to trumpeter Lester Young, Count uses his jazz expertise to revise Greg Nice's vocals. Count described his composition process in terms of sampling:

Songs that really I like a whole lot, that I've liked over the years, kind of run through my head all the time and so they kind of creep into songs. They get used that way, like in lyrics or something like that. And oftentimes I'll try to accent it by using the original. Unless you know [Nice & Smooth's "Funky for You"] you don't know who I'm talking about or what I'm talking about, but I think to the people who are in the know, I think it strengthens their faith that the things I'm talking about that they don't understand may have some relevance to them in time.

Like Foucault, Count believed his ideal listener should be able to recognize his source. This concept of audience is important to understanding sampling's revision function. If listeners cannot recognize the *All in the Family* theme song, or Nice & Smooth lyrics, or Johnny Cash's "Folsom Prison Blues," is the impact of the revision lost? Foucault faulted his reader for

not catching his allusions to Marx, and because sampling deals more in popular culture than philosophy, the responsibility rests with the listener. As I discussed in a previous section, hip-hop producers enjoy discovering and reclaiming obscure material. With “Truth to Light,” Count seems more interested in strengthening his bond with those listeners who are “in the know” than with explaining his sample and revision to the less savvy listener. As Foucault argued, physicists use the ideas of Newton and Einstein in their work without providing footnotes to guide the reader through physics’ founding principles. Count directed “Truth to Light” toward those listeners familiar with old school hip-hop lyrics, but on “Just Say No,” he borrowed from more familiar territory in juxtaposing a 1980s antidrug slogan with a 30-second voiceover from a sugar commercial: “Do you think things that taste good are fattening?” the commercial begins, enticing the listener to give in to the pleasures of sugar. “Come on, you’re not using one of those substitutes, are you?” With my listening guided by the title, “Just Say No,” I can’t help hearing the sugar spokesman as a pusher. By relying on listeners’ familiarity with cultural artifacts, sampling creates or revises meaning by putting old sounds in new contexts. Even though producers use existing sounds for new purposes, the question remains of who owns and controls those existing sounds. Many producers respond by embracing sampling as an outlaw act.

### **3. Sampling as crime**

Court decisions that reduce sampling to theft recall Foucault’s (2003) idea that the concept of authorship had less to do with writing than with private property. I have illustrated sampling’s transformative power and the new meanings it can create through recombination, parodic repetition, and juxtaposition. Because copyright laws were designed for print, the act of sampling is often articulated through print metaphors to show that sampling can function as quoting or citation. Yet several lawsuits over sampling have seen musicians and record companies seek damages for the use of their sounds in hip-hop songs. As copyright laws criminalize sampling, hip-hop artists have embraced sampling-as-crime, to write a Robin Hood narrative of musicians freeing sounds from the bonds of record company litigation. Foucault’s concept of authorship as ownership comes into play as the name on the recording contract often doesn’t match the name of the musician who recorded the actual sound. As I illuminate these issues through my interview with Count Bass D and a study of a sampling lawsuit against the Beastie Boys, this section will examine the contradictions between sampling’s role as a creative and a transgressive act.

Count Bass D identified a bias against sampling. As an artist who felt he had to learn sampling in order to prove himself to his peers, and found it more difficult than any of the traditional instruments (like bass, drums, and keyboards) that he’d learned to play, Count recognized that sampling is widely criticized as a shortcut in creativity even as audiences appreciate similar digital recombination in the visual arts:

Sampling is like photography, and drum machines are like Photoshop, or Quark, or Illustrator. But because the things we use are so obscure, they don’t even understand that this is coming from this place, and this is coming from that place, because it all comes together and makes musical sense. So people think you just get one record and you get some drums and voila.

Count described the technical and cultural knowledge that sampling requires, from understanding musical composition, to learning sampling technologies (like truncating and looping samples, converting digital sound to analog, and manipulating samples to fit the rhythm of the new song), to understanding the types of records and drum patterns from which hip-hop music is built.

Yet even as Count Bass D defended sampling's creativity, he also promoted making rap music a criminal act: "We're renegades, man. What we're doing is illegal. That's one of the main reasons why I like it too. It *is* hip-hop when you're doing it my way. You know? It's got to be renegade. Hip-hop started as a writing culture, as a graffiti culture, which is not legal." Just as graffiti artists overlay existing structures (railroad cars, billboards, buildings) with their own art so that the structure becomes part of the artwork, rap producers without the financial and legal backing of a major record label have to find ways around the intricate process of sample clearance. As an artist who records independently, Count felt a distinct tension between his ideology of sampling from musicians he admires and the profit agenda of the corporate recording industry. Count distinguished between ethics and legalities in making the point that rap producers often steal from the record companies that gave studio musicians unfair contracts rather than the musicians themselves. He feels that industry regulations on sampling can hinder creativity as they require musicians to go through the proper legal channels to make sure those entities who own publishing rights are properly compensated:

We duck around trying to find a manufacturer that'll press up this record or press up that record, because we don't have time to wait on the RIAA and record companies to decide how much more they want to fuck people in the ass. I'm sampling this man's drums and the drummer's not even getting fuckin paid. How am I supposed to feel guilty when James Brown is getting the money and not [Brown's "Funky Drummers"] Clyde Stubblefield and Jabo Starks? When I've *talked* to Jabo Starks. I've *talked* to Clyde Stubblefield. I've talked personally to them and discussed it, and I know that they're not seeing a dime off that. How am I supposed to I feel guilty if I use their drums? It's their work. Nobody told them to play that pattern. Nobody gave them writer's credit and they didn't get any publishing [rights] so they don't get any money.

As a commercial product, popular music is granted an author-function, but the name on the record and the name on the publishing contract often don't match. Studio musicians cede their publishing rights to the artist on the album cover, and artists cede licensing rights to record labels. Clearing samples is a complicated business because rights to the composition (the sheet music) and the performance (the sound recording) often are held by different entities even when the composer and performer are the same person. In the late 1980s and early 1990s, before there existed a defined legal system of clearing samples, artists such as De La Soul, Biz Markie, and the Beastie Boys were sued by the musicians they sampled. Media attention to hip-hop sampling tended to label it a transgressive act by which rappers, who didn't play instruments, infringed on the copyrights of more legitimate musicians. In conjunction with the early backlash against sampling, hip-hop artists often frame sampling as a transgressive act. As sampling was outlawed, many rap artists embraced this outlaw identity.

Sampling as theft fits with Tricia Rose's (1995) description of hip-hop's "sociology-based crime discourse" (p. 237). In the legal realm, however, sampling is a white-collar crime, contained to lawsuits over intellectual property. Legal issues for sampling often get articulated

through comparisons to written text. In 2002, for example, the **Beastie Boys** issued a statement after being unsuccessfully sued by composer James Newton for not having cleared the rights to a sequence of three notes (C/D-flat/C) Newton had composed for his song “Chorus.” The group had cleared all rights to the recorded music with Newton’s record label, ECM, but had not cleared their use of the musical composition for which Newton still owned the rights. This distinction between recorded performance and written composition proved pivotal to the judge’s decision in favor of the Beastie Boys. In their own statement, issued online at <[www.beastieboys.com](http://www.beastieboys.com)>, the group defined a crucial distinction between the written and the performed:

A composition is a combination of words and musical notes, generally presented as sheet music. The copyright of the recording on the other hand, has to do with the uniqueness of the performance on that particular recording. The system exists because often songwriting and performing are two different lines of work.

The B-Boys offered an analogy to literature where the sound recording of a book on tape constitutes a very different copyright than the words printed on the page. The Beastie Boys argued that their sampling of only three successive notes, originally composed by Newton, on their song, “Pass the Mic,” did not breach copyright because a sequence so brief (6 seconds) does not constitute a musical composition. The group argued, “If one could copyright the basic building blocks of music or grammar then there would be no room for making new compositions or books.” The Beastie Boys extend their print analogy to argue that in digitally manipulating Newton’s recorded flute performance to change its tone and duration they effectively changed the notes Newton composed. They compare this kind of digital manipulation to paraphrasing. As the Beastie Boys defended their digital sampling on “Pass the Mic,” they called into question distinctions between print, recording, and performance. These distinctions are complicated by hip-hop’s existence as a commercial music form and also by the crime-based discourse that still pervades the musicians’ concepts of identity performance. The Beastie Boys argued, that copyright regulations exist to protect, rather than limit, musicians and that as Newton sought what they considered an unfair payment of over one hundred thousand dollars (and as he refused an out-of-court settlement) that he attempted to manipulate the intent of copyright laws which protect transformative works. As I discussed in my introduction, sampling is subjected to the fair use regulations of U.S. copyright law, section 107, which outlines four factors to consider in determining if an infringement occurred: “the purpose and character of the use” (i.e., commercial or nonprofit), “the nature of the copyrighted work,” “the amount and substantiality of the portion used,” and “the effect of the use upon the potential market for or value of the copyrighted work.” Earlier I mentioned the U.S. Supreme Court’s decision that upheld 2 Live Crew’s right to parody Roy Orbison’s “Oh, Pretty Woman.” This decision stated that “the more transformative the new work, the less will be the significance of other factors.” The Beastie Boys’ “Pass the Mic” bore very little resemblance to Newton’s “Chorus.” The Beastie Boys transformed the original by manipulating its sound and combining it into a new composition.

The Beastie Boys’ case is important for students to examine to understand how copyright laws are applied. The C/D Flat/C heard on “Pass the Mic” is so transformed from Newton’s sheet music that it is impossible to prove that they stole his composition. The case, though,

played out in court for nearly three years, and the Beastie Boys reported that their legal costs ran more than \$100,000. In the statement on their web site, they urge musicians to avoid such frivolous lawsuits and remind their readers that copyright laws exist to protect artists, not to hinder their creativity. Musicians and record companies have been very litigious over sampling, which reminds me of Foucault's (2003) claim that authorship has less to do with writing than with the law—that is, who can claim ownership of words, ideas, and sounds. Count Bass D's concept of sampling as crime works to put these words and sounds back into the hands of musicians.

#### 4. Sampling's implications for the writing classroom

Beyond these issues of intellectual property, sampling is a valuable form for students to compare to academic writing because it requires creativity in finding and using sources. As a writing instructor, I find that students are less concerned with what they can *do* with a source than what is the citation format their work must fit. This outlook is a symptom of the way many of us teach academic citation systems, as rigid sets of rules that dictate we attribute all sources to avoid accusations of plagiarism. While I am as frustrated with plagiarism as are other writing teachers, I believe this reverence toward sources puts students at a disadvantage when they are asked to interact with the words and ideas of other authors. When I ask students, even in upper-level classes, why they use sources, the answer is overwhelmingly “to back up my points” or “to show what the experts believe.” Rarely do I hear students talk about engaging in a conversation with their sources, responding to their ideas, or building from the work they have done by updating it, extending it to new areas, or challenging its ideas. Rather than digging for unique source material and seeking out voices that can be applied to their own new and unique topics, I too often see my students opting for overused topics (like abortion, gun control, or the death penalty) where they believe they can find the most sources. These papers tend to be far less interesting and complex than the papers that develop unique topics that require more digging for sources and combining and applying sources that may not be on their topic at all. I am not suggesting that my students sample, rather than cite, in their writing, but rather that studying hip-hop sampling as an alternate citation system can shed new light on how sources might be used and how sourcework can be a creative act.

Analogies drawn between sampling and print writing in recent sampling lawsuits and plagiarism scandals make these events a strong starting point for complicating our views of sourcework in print and sound. To conclude, I'll turn my attention to a recent case where sound was invoked in defense of print when an author's plagiarism was defended as sampling. In 2005, the University of Georgia Press stripped Brad Vice of his Flannery O'Connor Award and pulped his short story collection *The Bear Bryant Funeral Train* after a librarian discovered several phrases were borrowed from Carl Carmer's book, *Stars Fell on Alabama*. Jason Sanford (2005), writing in defense of Vice, compared Vice's use of Carmer to sampling:

All I know is that throughout history all types of artists, including writers, have used variations of sampling. Shakespeare was famous for this. (In fact, Shakespeare may have done much more than sample. Hamlet, for example, was supposedly based on a so-called Ur-Hamlet play written a few years earlier by another playwright, possibly Thomas Kyd.)

Vice's case illuminates misunderstandings of sampling as plagiarism. While Sanford is right that all types of artists have used sampling (e.g., Salvador Dali, Andy Warhol, Donald Barthelme, William S. Burroughs), what Sanford described is not sampling. The works to which he referred are not transformative. They do not engage in textual revision. Shakespeare wrote in an age before the concept of intellectual property that Foucault shows coincided with the concept of authorship was established. Sanford's analogy is flawed in that Vice employed none of the recombination or recontextualization demonstrated in my earlier examples of hip-hop sampling. Vice's story does not revise or parody Carmer or transform his work in any substantial way. Vice adapted several phrases, including his story's title, from Carmer's original story and changed some of them very slightly (see Young, 2006, for side-by-side examples of text from Carmer and Vice). In this sense, Vice comes much closer to writing a cover version of Carmer's story. Cover songs maintain the original song's essential structures, both musical and lyrical, but may adapt the song for new audiences, changing the style of the performance while keeping these essential structures intact. Deena Weinstein (1998) traced the cover song's history within rock music to the 1950s, when white rock groups would record new versions of black R&B songs for white audiences (p. 139). When the Ataris released a pop-punk cover of Don Henley's "Boys of Summer," they sped up the song and shifted their intended audience by changing one line (from "I saw a Deadhead sticker on a Cadillac" to "I saw a Black Flag sticker on a Cadillac") to distinguish Henley's 1960s rock nostalgia from their own 1980s punk nostalgia. The cover song is in many ways a tribute to the power of the original; although the modes of performance and audience may change, the original composition is preserved to an extent that does not fit with hip-hop producers' descriptions of sampling.

Vice's writing is not sampling because it is not transformative. He does not engage in juxtaposition, parody, or textual revision. Sampling is an odd choice to use in defending Vice's work; sampling remains a maligned practice, one often equated with theft rather than creativity. Vice's case is more about the stigma of plagiarism. In keeping with my reading of his story as more like a cover song than a sample-based composition, Vice has explained that he intended the story to be a tribute to Carmer. The problem is that his book never mentions Carmer's name. Although Vice titled his story "Tuscaloosa Knights" in reference to Carmer's chapter "Tuscaloosa Nights," the reference to the title was not sufficient attribution for readers not intimately familiar with Carmer's work. Here we return to the audience question posed in Foucault's statement about using Marx and in Count Bass D's statement about revising Nice & Smooth. If Carmer were well known enough, or if I were well read enough, I would not need to see attribution to know the words were his. Unlike listening to a sample, I can't hear the difference between Vice's and Carmer's voices. There is nothing to indicate what comes from the source and what comes from Vice. As I argued earlier, while sampling does not attribute the source by providing an author's name, as a listener I can distinguish between what is original composition and what is source. Knowing the author's name is secondary. What is most important is that the reader can distinguish source from new composition.

Yet the most interesting aspect of this case is that Vice's University of Cincinnati doctoral dissertation included an epigraph from Carmer at the beginning of "Tuscaloosa Knights." This epigraph did not appear with the story in his book. Both sides of the debate have used this epigraph as evidence. Either Vice intended to credit Carmer and the epigraph was somehow cut

before publication, or Vice intentionally removed the epigraph to hide his reliance on Carmer. The consensus seems to be that a plagiarism case would be more difficult to build if Vice had included *any* mention of Carmer's name anywhere in the book. Plagiarism, then, hinges on Vice's intent. Did Vice intend to present Carmer's work as his own or was it a poorly attributed tribute? Obviously, short stories do not traditionally follow a citation system such as MLA or APA. How, then, should such sourcework be attributed? Does a general acknowledgement of another author indicate that certain phrases throughout will be quoted or borrowed without citation? Print authors and some hip-hop artists have relied on copyright pages and liner notes to cite their sources without interrupting the aesthetics of their piece with in-text citations or footnotes.

Although academic writing, unlike hip-hop, is essentially removed from the commercial realm, a case like Vice's illustrates the importance of understanding other systems of sourcework and how they come to bear on what we do when we write. Because sampling is invoked in a case like Vice's, it becomes an important technique for composition studies to examine. Sampling, even when it is celebrated as theft and subversion of the record industry, requires doing something new with the source material, which is exactly what I ask of students in working with sources. I want to see students make connections between sources, to use Foucault to talk about hip-hop, or to juxtapose a sugar commercial with antidrug rhetoric. Sampling's power of juxtaposition can be replicated in academic writing by combining unique and different sources to create new meanings. I want students to enter the conversation, to extend, challenge, update, and apply the ideas of other scholars. Sampling as a citation system may have values that oppose the academic value of plagiarism, but it also accomplishes much of the same goals in responding to sources. Sampling can revise. Sampling can make connections across different fields, juxtaposing sources to make a new statement. In teaching such recombination through sampling, I ask students to look at the sources scholars use to support their arguments and from what different fields they draw. We read a chapter from [Philip Auslander \(1999\)](#) who used Jean Baudrillard's reading of the Watergate scandal to analyze the Milli Vanilli lip-synching fiasco that cost that group their Grammy award. Another scholar we read, [Richard Peterson \(1997\)](#), used a regional classification system for "authentic" wines to understand how country music artists authenticate themselves to listeners. Studying such academic sourcework in connection with sampling has been valuable in prompting students to think about ways to enter a conversation with sources, to apply the ideas of others to their own new subjects, and to connect their ideas to scholars working in different areas.

Too often students approach research with tunnel vision and even want to abandon their most creative topics because they can't find enough sources written specifically about that topic. I believe this pattern is symptomatic of a larger problem in the way teachers have approached student research. Many students, even upper-level undergraduates, still are under the impression that they need to find expert voices to make their topics credible and worthwhile. I see this outlook limiting the research projects students design and leads them to less unique topics where they can find volumes of sources to use. A more important goal for students is to make their topics interesting to various fields and to draw from different fields in designing and structuring a research project. Studying hip-hop sampling as an alternate citation system can help students understand that invention and creativity go into sourcework. I encourage

students to use sources for their own purposes, to mine the work of others for ideas they can extend, apply, challenge, and update. In juxtaposing academic citation systems and sampling we can look at the ways writers take sources somewhere new.

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