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The Dissertation Committee for Christine Emily Boone Certifies that this is the approved version of the following dissertation:

Mashups: History, Legality, and Aesthetics

Committee:

James Buhler, Supervisor

Byron Almén

Eric Drott

Andrew Dell'Antonio

John Weinstock

Mashups: History, Legality, and Aesthetics

by

Christine Emily Boone, B.M., M.M.

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Mashups: History, Legality, and Aesthetics

Christine Emily Boone, Ph.D.
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Supervisor: James Buhler

As the popularity of mashups attests, individual songs and their increasingly irrelevant prepackaged albums no longer seem to constitute a finished product to many who listen to them. Instead individual songs often serve as raw ingredients for use in another recipe – the playlist, the mix, the mashup – which those who buy the songs make and exchange. The strict division between producers and consumers, which the music industry exploited very productively throughout the twentieth century, seems to be breaking down, and I conclude that the mashup models a different, more fluid relationship between musical consumption and production.

In this dissertation, I examine mashups from a music theoretical point of view. I argue that the mashup represents an important musical genre with distinguishing characteristics and its own historical development. Chapter 1 defines the mashup and devises a typology that classifies the genre based on two characteristics: number of songs combined and the mode of their combination (vertical or horizontal). This typology leads to the division of the mashup into four distinct subtypes. Chapter 2 discusses significant legal challenges raised by the mashup, especially with respect to copyright. Mashups – at least in recorded form – began as an underground, largely non-commercial phenomenon,

due to the cost and difficulty of obtaining permission to use another artist's recording. I also examine various pertinent musical lawsuits and discuss their influence on the way mashup artists make and distribute their works. Chapter 3 probes the historical factors that led to the development of mashups, including sampling in hip hop music (both recorded and live), collage techniques in art music, and looping and mixing by club DJs. Chapter 4 investigates the aesthetics of the mashup. Critics in the popular press and on the internet judge mashups without specifying the musical characteristics that make a particular mashup successful. This chapter seeks to locate the aesthetic principles that govern mashup production. Using commentary by mashup artists as well as transcription and analysis of several mashups, I divide these aesthetic principles into two categories: construction and meaning. I then develop a list of characteristics that mashup artists aim for when creating their tracks.

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Introduction

In 2007, Robert Everett-Green wrote a provocative, short column for a Canadian newspaper entitled “The Rise of the Song.”[1] In this column, he argued that few people buy CDs at physical record stores anymore. Instead, argues Everett-Green, most people now purchase individual songs from online retailers like iTunes.[2] This consumption practice has reshaped the way that people think about and relate to their music. Previously, a recorded song was part of a larger whole – the album. In the age of the MP3 download, however, this is no longer the case. Today, the song stands more or less alone. Of course, the single had been the dominant commodity of the record industry up until the late 1960s, so the situation today is hardly new. The difference today, however, is the much larger degree of control people have over their playlists – especially in the way they can quickly exchange playlists with one another. Through the rapid exchange of playlists, songs become embedded within contexts of other songs, but unlike the similar situation of radio playlists these custom playlists represent personalized relationships of songs that often unlock unexpected, idiosyncratic, even quixotic significance to the songs.

Everett-Green may be too vague and seemingly unaware of the long history of the 78 and 45 when he claims that “Even without considering how they're disseminated, songs over the past decade have become much more obviously related to other songs than to albums." But he raises an important point when he notes the way technologies of mixing and recording seem to be undermining even the stability of the recorded single. "The ever-widening use of samples and loops, and the normalization of remixes and mashups, promotes an idea of the song as a porous, dynamic entity in a maelstrom of other songs."[3] Consumers today think of songs as active components ready to be mixed up in a new recipe, not as static artworks meant to be heard again and again in some inviolable original setting. Everett-Green points to the "normalization of remixes and mashups" as a particularly strong indicator that the song has become just such a "dynamic entity." Of the two, the mashup is the more radical intervention, and, as such, the conceptual reorientation should be most apparent here. My dissertation will therefore focus on the mashup.

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[1] Robert Everett-Green, “The Rise of the Song,” *The Globe and Mail (Canada)*, January 27, 2007, sec. Weekend Review.

[2] Indeed, statistics continue to show a steady decrease in CD sales and increase in digital sales each year. (Jay Corless, “US CD Sales Plummet as People Turn to Digital Music Downloads,” *Agence France Presse*, March 22, 2007.)

The recent origin of the contemporary mashup is usually traced to DJ Freelance Hellraiser, who in 2001 mixed the vocals from Christina Aguliera's "Genie in a Bottle" with the instrumentals from the Strokes' "Hard to Explain." The result was "A Stroke of Genie-us." Although mashups at first circulated on the internet in "underground" or "viral" fashion,[4] today they have entered the musical mainstream and become "normalized," as Everett-Green puts it. The first discussion of mashups I have been able to find in the popular press appeared in *Spin* magazine in 2002.[5] By 2006, articles about mashups had appeared in such mainstream publications such as the *St. Petersburg Times*, the *New York Times*, the *New Yorker*, and *Newsweek*.[6] Unlike *Spin*, these newspapers and magazines are not geared to those with a specific interest in music; the appearance of articles about mashups in these venues suggests at least mainstream curiosity toward the phenomenon.

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[3] Everett-Green, "The Rise of the Song."

[4] Christopher Partridge, "The Spiritual and the Revolutionary: Alternative Spirituality, British Free Festivals and the Emergence of Rave Culture," *Culture and Religion* 7, no. 1 (2006): 41-60.

[5] Andy Greenwald, "When Stars Collide: Bootleggers Create a World Where D12 and Depeche Mode Play Nice and Web Geeks Play God," *Spin*, 2002.

Such generally favorable attention by the mainstream press is perhaps surprising because, as Kembrew McLeod notes, the mashup is a sort of "pop music Frankenstein,"[7] which challenges accepted legal standards for musical production and destabilizes the cultural identity of recorded music. In making a mashup, people take two (or more) songs, chop them up, mix them together, and present the result as a kind of commentary on the original recordings. The process of mashing thus opens recordings up into "dynamic entities": the mashup thus rejects the more traditional view of a song as a finished product and conceives it instead as raw material for another iteration of artistic production. Although many aspects of the mashup have precursors in music history (quotation, paraphrase, collage, remixing, etc.), the technology needed to make a mashup had, by the year 2000, become relatively inexpensive, and, more importantly, the internet had advanced to such an extent that it could serve as a reasonably efficient means of distribution. This combination of inexpensive production and an effective distribution channel allowed an avid amateur community to emerge around the genre. The formation of an amateur production community was crucial to the success of the genre because legal issues make commercial exploitation difficult. There are many issues to consider when focusing on mashups, but I have chosen to narrow my study to three main features: history, legality, and aesthetics.

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[6] Gina Vivinetto, "DJ's Fusion Falls into 'Grey' Area," *St. Petersburg Times (Florida)*, May 13, 2004, sec. Floridian; Kelefa Sanneh, "Mixtape Stars Spinning and Flipping Fresh Tracks," *The New York Times*, June 1, 2004, sec. The Arts/Cultural Desk; Sasha Frere-Jones, "1 + 1 + 1 = 1: The New Math of Mashups," *New Yorker* 80, no. 42 (January 10, 2005): 85-86; N'gai Croal, "Time For Your Mash-Up?," *Newsweek* 147, no. 10 (March 6, 2006): 61-62.

[7] Kembrew McLeod, *Freedom of Expression (R): Overzealous Copyright Bozos and Other Enemies of Creativity* (New York: Doubleday, 2005), 79.

Chapter 1 constructs a typology of the mashup in order to distinguish it from related genres and to refine its definition. Focusing primarily on two variables – the number of source songs and their mode of interaction – the typology sorts mashups into four broad subtypes: the basic mashup, the cover mashup, the paint palette mashup, and the megamix mashup. The basic mashup, the most common type, includes music from two or three source songs. The cover mashup is similar to the basic mashup, but does not include music from recordings – the source songs of the mashup are instead performed and recorded anew. The paint palette mashup, a bit of an aberration, atomizes the songs into very small snippets and then recombines those. The megamix mashup draws on a large number of source songs and strings them all together. The typology also locates five primary characteristics of the mashup. First, mashups consist exclusively of previously recorded songs. Second, they exhibit vertical interaction between the source songs. Third, they use at least two source songs. Fourth, they usually sample songs at a sufficient length that the source is readily recognizable. And fifth, at least one of the source songs of a mashup must be a popular song.

During the past two centuries, music has come under ever stronger copyright protection, and this has made musical borrowing into a legal as well as an artistic issue. Chapter 2 looks at changes to copyright law and examines the way legal considerations have affected the practices of musical borrowing. Since mashups rely on musical samples and the legal process for clearing those samples is onerous, mashup artists work in a precarious legal and economic environment that has fostered a community based on pseudonymous identity, pirate tactics, and amateur production. Opinions among informed authors about the exact legal status of mashups is mixed, but the general consensus seems to be that mashups constitute a class of creative output, and that strict interpretation of the law as is currently enforced impedes people's creativity and illegitimately protects record companies.[8]

Because sampling is a central constructive device of the mashup, Chapter 3 examines the history of musical borrowing and quotation. Incorporating previously existing music into a new composition is a musical practice that goes back centuries, and this chapter sketches that history from the Middle Ages all the way up to today. It also considers the scholarly theories of musical borrowing that have developed for the study of both Western classical music and popular music. The primary change in the practice of musical borrowing has involved a shift from the appropriation of a song (or a work) as an abstract idea to the appropriation of a song as a recorded performance. The main historical forces that led directly to the creation and development of mashups are DJ mixing practices and sampling in hip hop. Because of their direct influence on mashups, these two genres are investigated with great scrutiny.

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[8] Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy* (New York: Penguin Press, 2008); Joanna Teresa Demers, *Steal This Music: How Intellectual Property Law Affects Musical Creativity* (Athens, GA: University of Georgia Press, 2006); McLeod, *Freedom of Expression (R)*; Siva Vaidhyanathan, *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity* (New York: NYU Press, 2003).

Chapter 4 investigates the aesthetic principles of an effective mashup. Mashup production can be split into two areas: construction and meaning. I have identified five constructive principles of the mashup. First, the source songs must have matching tempos (or the speed of one or both recordings must be altered until they do). Second, a mashup should be made up of songs whose beat patterns fit well with each other. Third, the source songs must be in keys that sound good together and do not produce any clashing notes. Fourth, there is an emphasis on clarity of lyrics in mashups. The lead singer must be understood. And fifth, mashups follow the formal structure of popular songs. These are all characteristics that are similar to the traditional constructive principles of the pop song. The meanings of mashups, on the other hand, follow more subversive principles. The source songs are usually from different genres within the overarching "pop music" category. Mashups are frequently described using terms like "a marriage made in hell,"[9] "a recombinant DNA experiment,"[10] "bastard pop,"[11] and "the online stepchild of the remix."[12] The creators of these pieces of music have been called "musical mad scientist[s]"[13] and "pop music Frankenstein[s],"[14] for fusing together disparate songs in a functional way. This collision of different musical styles often results in irony or humor.

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[9] McLeod, *Freedom of Expression (R)*, 80.

[10] Andy Greenwald, "Dirty Pop: Sample This! DIY Bootleggers Reinvent the Art of the Mix," *Spin* 18, no. 8 (2002): 115.

[11] Steve Lamacq, "Get Ur Bootleg On" (BBC Radio One, 2002).

[12] Ivor Tossell, "Mashup Bash is a Star On-Line," *The Globe and Mail (Canada)*, December 16, 2005.

When songs from different genres are combined in this way, the end result is repeatedly, according to critics, more enjoyable than either of the original songs. Mashups often seem to add up to "more than the sum of their parts,"[15] a verdict that suggests consumers' dissatisfaction with the constraints that the music industry wants to place on musical listening and engagement. The continual remixing and rearranging of music suggests that people are unhappy simply listening to music as it is. They want to do more than consume music; they want to remake it, explore it, and share those explorations with others.

LITERATURE REVIEW

While popular music has become an important area of music studies in the past 25 years, mashups, by victim of being a relatively recent phenomenon, have not yet received sustained scholarly attention. There is as of this writing no book-length treatment of the topic, and the vast majority of critical commentary on it has occurred in the popular press, on media websites, and on blogs. However, Liam McGranahan's recent dissertation is a first step toward research on the mashup community from an ethnomusicological perspective.[16] McGranahan focuses on the web-based mashup community and investigates the way that this community resists mainstream culture. He pays special attention to the legal issues surrounding mashups, and, through personal interviews and research on mashup websites, unveils the alternative set of rules that mashup creators follow regarding authorship. The other existing literature falls mainly into two categories. The first category involves general explication of the genre, often with some speculation as to its social significance. The second category consists of reviews of particular mashups. Articles by Croal, Cruger, Frere-Jones, Greenwald, Moss, Mudhar, Rojas, and Tossell are good examples of the first category.[17] These articles give a basic definition of a mashup, tackle some of the copyright issues, and conclude with brief discussions of particular mashups and provide a list of websites where they can be downloaded. Reviews by Crosley, Daly, Espiner, Murphy, Sanneh, Schapiro, and Vivinetto are examples of the second category.[18] As reviews, these articles evaluate particular mashups, generally embracing an aesthetic that values creativity and cleverness. These critics seem particularly drawn to mashups that mix together songs from disparate artists in a way that seems to "work." Unfortunately, they rarely specify what they mean by "work," so the exact musical dimension of the underlying aesthetic remains frustratingly vague. Presumably, a good mashup consists in locating and exploiting latent relationships between songs, and the aesthetic position of the reviews seems to be that the best mashups occur between songs that seem to have little to do with one another on the surface. This is a point that could use empirical verification and I see providing that as one of the principal contributions of my dissertation.

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[13] Vivinetto, "DJ's Fusion Falls into 'Grey' Area."
[14] McLeod, *Freedom of Expression (R)*, 79.
[15] Tossell, "Mashup Bash is a Star On-Line."

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[16] Liam McGranahan, "Mashnography: Creativity, Consumption, and Copyright in the Mashup Community" (Ph.D. Dissertation, Providence, R.I.: Brown University, 2010).

[17] Croal, "Time For Your Mash-Up?"; Roberta Cruger, "The Mash-Up Revolution," *Salon*, August 9, 2003, http://archive.salon.com/ent/music/feature/2003/08/09/mashups_cruger/ [accessed 30 April, 2011]; Frere-Jones, "1 + 1 + 1 = 1: The New Math of Mashups."; Greenwald, "When Stars Collide."; Greenwald, "Dirty Pop."; Corey Moss, "'Grey Album' Producer Danger Mouse Explains How He Did It," *MTV Online*, March 11, 2004, http://www.mtv.com/news/articles/1485693/20040311/jay_z.jhtml?headlines=true [accessed 30 April, 2011]; Raju Mudhar, "Five Years After the Genie-us, Mashups May Go Mainstream," *The Toronto Star*, December 24, 2006, sec. Entertainment; Partridge, "The Spiritual and the Revolutionary."; Tossell, "Mashup Bash is a Star On-Line."

[18] Hillary Crosley, "Mashing Up 'Purple Rain'," *Billboard* 118, no. 26 (July 7, 2006): 34; Sean Daly, "Review: The Beatles 'Love'," *St. Petersburg Times (Florida)*, November 28, 2006, sec. Floridian; Mark Espiner, "Must They Be Mashed Up," *The Guardian (London)*, November 18, 2006, sec. Comment and Debate; Scott Murphy, "Review: The Beatles 'Love'," *South China Morning Post*, December 3, 2006, sec. Features; Sanneh, "Mixtape Stars Spinning and Flipping Fresh Tracks."; Rich Schapiro, "Rat Pack and Rap Pick," *Daily News*, September 30, 2005; Vivinetto, "DJ's Fusion Falls into 'Grey' Area."

The mashup shares many important characteristics with rap, especially with respect to technology and legal issues. A significant body of literature exists on hip hop studies.[19] *Black Noise* by Tricia Rose, a seminal volume on hip hop, is particularly relevant for my project because of the extensive space she gives to addressing the issue of sampling in rap music (although not from a musical perspective). Rose focuses on early hip hop practice, prior to the legal restrictions imposed in the early 1990s. She discusses the way that early hip hop artists like Grandmaster Flash used samples as "dialogue" to engage in conversation with their own work and as "commentary" on that work.[20] Such use of samples is equally applicable to the situation with mashups. Rose considers the use of such samples a form of composition, where the preexisting samples are used as

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[19] See, for example S. H. Fernando, *New Beats, The* (New York: Doubleday, 1994); Steve Hager, *Hip Hop: The Illustrated History of Breakdancing, Rap Music, and Graffiti* (New York: St. Martin's Press, 1984); Havelock Nelson and Michael A. Gonzales, *Bring The Noise: A Guide to Rap Music and Hip-Hop Culture*, 1st ed. (New York: Crown, 1991); Robert Walser, "Rhythm, Rhyme, and Rhetoric in the Music of Public Enemy," *Ethnomusicology* 39, no. 2 (1995): 193-217; Adam Krims, *Rap Music and the Poetics of Identity* (Cambridge University Press, 2000); S. Craig Watkins, *Hip Hop Matters: Politics, Popular Culture, and the Struggle for the Soul of a Movement* (Beacon Press, 2005), among others.

[20] Tricia Rose, *Black Noise: Rap Music and Black Culture in Contemporary America*, 1st ed. (Middletown, CT: Wesleyan University Press, 1994), 53.

"building blocks." Rose argues that this manner of composition is a form of authorship that emphasizes individuality but also helps communities create group identities that "articulate a distinct oral past," and is a conspicuously African-American practice.[21]

In "Sampling the 1970s in Hip-Hop," Joanna Demers pushes this point further.[22] She examines the reasons behind early rappers sampling specific types of music. She notes that the first hip hop records featured samples almost exclusively from 1970s funk, soul, and R&B (including music from Blaxploitation films, which Demers concentrates on in this article). Rappers, she argues, chose this music in order to create overt links with African-American culture of the recent past. These samples act in much the same way that mashups do – by putting different musicians adjacent to one another, a connection between them is established. Sampling Isaac Hayes's theme from *Shaft* can make Jay-Z seem more rebellious and independent, like the title character in the film, just as mixing Enya with Eminem seems to emasculate the rapper by putting him in association with easy listening music. The meanings are put in place, therefore, by the listener who is already familiar with the sampled material.

Sampling is not however exclusively a hip hop technique. Hugh Barker and Yuvall Taylor, for instance, discuss the use of sampling in Moby's 1999 album *Play*.[23] Moby used many sounds from John and Alan Lomax's field recordings of folk music, which, according to Barker and Taylor, lend the sound of authenticity to a genre that is usually thought of as overly-processed and inauthentic: dance music. This is not hip hop music, to be sure, but the result is similar: sampling from the past brings a degree of authenticity and power to an artist's music that may not have been there before. Edwin Pouncey points out that some aspects of sampling practice were present already in 1960s rock influenced by the contemporary avant-garde music scene.[24] He notes in particular that Yoko Ono was an active part of the Fluxus group, whose members used collage (in both the musical and visual senses) and *musique concrète* as some of their techniques. The Fluxus manifesto encouraged artists and composers to use whatever materials were at hand to create their works.[25] Chris Cutler's article in *Audio Cultures* investigates the history of "plundered sound" in art music, and, like Pouncey, discusses how rock musicians in the 1960s and '70s imported these techniques.[26] Cutler usefully classifies borrowed sound into five categories based on the amount of borrowed material a piece uses and the recognizability of the borrowed sound.[27] Although his classification system uses criteria similar to my own in Chapter 1, mashups do not fit neatly into any of Cutler's five categories.

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[21] Ibid., 95-96.

[22] Joanna Demers, "Sampling the 1970s in Hip-Hop," *Popular Music* 22, no. 1 (January 2003): 41-56.

[23] Hugh Barker and Yuval Taylor, *Faking It: The Quest for Authenticity in Popular Music* (New York: W.W. Norton & Co., 2007), 319-337.

Club culture is another important source for the mashup and, although not as extensive as that on hip hop, a significant literature on the music in dance clubs exists. Brian Austin and Mark Butler specifically address the issue of the club DJ and technology. Austin's dissertation investigates the history of the American DJ – from simply announcing records on the radio to the complicated mixing techniques used by club DJs in the 1990s.[28] Particularly relevant is his discussion of the transformation of the DJ from a passive player-of-records to an active creator of new tracks through mixing, overlaying, and scratching. Butler explicitly considers the modern club DJ as a composer.[29] His book focuses on rhythm and meter, but he is also attentive to how a DJ manages a set and the technology the DJ uses. Butler emphasizes the act of song selection, where the DJ produces a set characterized by a "unity" that emerges from different sources.[30] Each electronic dance music track, Butler says, carries a particular set of meanings, and those meanings are played with, developed and changed as one track is placed within a set and combined with other tracks.

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[24] Edwin Pouncey, "Rock Concrète: Counterculture Plugs In To the Academy," in *Undercurrents: The Hidden Wiring of Modern Music*, ed. Rob Young (New York: Continuum, 2002), 153-162.

[25] George Maciunas, "Fluxus Manifesto", 1963.

[26] Chris Cutler, "Plunderphonia," in *Audio Culture: Readings in Modern Music*, ed. Christoph Cox and Daniel Warner (New York: Continuum, 2004), 138-156.

[27] Ibid., 154.

As might be expected, the literature on copyright law as it applies to sampling is large and many of the articles appear in law journals. The landmark lawsuit regarding sampling in hip hop music remains Warner Brothers Records v. Grand Upright Records in 1991, which was decided in favor of the plaintiff and against the practice of sampling. Many of the articles grapple with the consequences of this ruling. It is frequently noted that the judgment in this case did not seem to reflect contemporary musical values or practice.[31] The two authors cited above, Daniel Gifford and Brett Kaplicer, note the importance of using borrowed elements throughout musical history, and point out that copyright law is not well suited to recorded music. Kaplicer argues for judges to look at each case individually before determining a verdict, rather than making decisions based solely on precedent. He sets forth a series of criteria with which to examine the offending song, including the length and recognizability of the sample. Gifford argues that the law itself should be changed in order to better agree with the current compositional practice.

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[28] Brian Todd Austin, "The Construction and Transformation of the American Disc Jockey Occupation, 1950-1993" (Ph.D. Dissertation, University of Texas at Austin, 1994).

[29] Mark J. Butler, *Unlocking the Groove: Rhythm, Meter, and Musical Design in Electronic Dance Music* (Bloomington: Indiana University Press, 2006).

[30] Ibid., 49.

[31] Daniel J. Gifford, "Innovation and Creativity in the Fine Arts: The Relevance and Irrelevance of Copyright," *Cardozo Arts and Entertainment Law Journal* 18 (2000): 569-614; Brett I. Kaplicer, "Rap Music and De Minimis Copying: Applying the Ringgold and Sandoval Approach to Digital Samples," *Cardozo Arts and Entertainment Law Journal* 18 (2000): 227-255.

Other authors, including Negativland, Vaidhyanathan, Lessig, Demers, and McLeod, discuss copyright law as it specifically applies to mashups.[32] Negativland's book is made up mainly of correspondence between themselves and U2's record label and lawyers. It is a book about their own tangle with the law when they decided to mix U2's "I Still Haven't Found What I'm Looking For" with a recording of radio personality Casey Kasem in 1992. Vaidhyanathan, Lessig, McLeod, and Demers all give a similar argument in their respective books. Each of these books discusses the historical precedent and importance of borrowing music, especially in African-Amercan culture. They all stress the idea that it is possible to be creative while using someone else's material as the basis for a composition. They each argue the case that nothing at all can be entirely original, and that we are influenced, either consciously or unconsciously, by everything we see and hear. All four of these authors give a brief history of copyright law, and explain why it exists in the first place – to protect authors' rights, yes, but also promote the creation of new works. And they argue that with the extension of its terms, it has completely lost part of what it was designed for: the protection aspect has become weighted much more heavily than the creativity aspect. Because copyright terms now last for so many years, the law currently serves in effect to protect corporate profits and *limit* creativity rather than promoting creativity, as the Constitution seems to imply as the primary purpose of copyright. Each author then introduces the mashup as the newest type of musical creation that is fundamentally incompatible with copyright law.

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[32] Richard Dyer, "In Defence of Disco," in *On Record: Rock, Pop and the Written Word*, ed. Simon Frith and Andrew Goodwin (New York: Pantheon, 1990), 410-418; Vaidhyanathan, *Copyrights and Copywrongs*; McLeod, *Freedom of Expression (R)*; Lessig, *Remix*; Demers, *Steal This Music*.

Scholarly work on the mashup has so far focused mainly on copyright issues. The literature has also discussed cultural factors, such as being constantly bombarded by music in the media that have led to its development.[33] Authors explain the appeal of a mishmash of styles, and note the humor inherent in it. And they also delve into the various historical trends that influenced the initiation of mashups. The one factor that has not been treated at all is the musical side. The sources that I have cited discuss the lyrics of mashups, true, but the musical elements (notes, rhythm, meter, timbre, texture, and form) go completely unmentioned. This is where the principal contribution of my dissertation will be: Using transcription and analysis, I investigate mashups from a musical point of view, while discussing the musical techniques that are used in their creation, giving musical specificity to how they "work," and how they attain their meanings.

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[33] See, for example Lessig, *Remix*.

Chapter 1: A Typology of Mashups

I will start with a cursory working definition, which will serve as my point of departure. A mashup combines portions of two or more previously recorded songs into a single track. A cursory examination of mashups quickly reveals that they do not all follow the same pattern of construction; instead, mashup artists pursue a number of possible strategies. It is also not immediately apparent how mashups differ from other closely related genres such as the remix or the collage piece. My main goal for this chapter is to refine the working definition of the mashup that I just proposed and establish a functional typology of its various manifestations and closely related genres. The typology will offer a set of criteria to distinguish the mashup from other genres as well as to differentiate the various subtypes. I will begin this chapter by discussing ways of reworking and combining popular songs. My analysis will focus primarily on two dimensions – the number of sources for material and the way that material interacts with itself and with other music. These dimensions serve as the axes for Figure 1.1.

One important criterion of the mashup is that it consists of previously recorded songs. Indeed, a mashup, however esoteric its use of material may be, draws almost exclusively on the realm of well-known popular songs for that material. The idea behind most mashups is to make cultural references that listeners immediately recognize.[1] In this respect, the principle of recognizability is important in distinguishing mashups from other patchwork-types of music, like collage, where immediate recognizability of the source is rarely a primary issue. The vertical axis of the typology (Figure 1.1) therefore reflects the manner in which a piece uses other music (whether it remains recognizable or not). This axis also captures the amount of material that is being used (none, 1 song, 2-3 songs, more than 3 songs). The number of songs is an important factor because combining a large number of songs requires different techniques, and those pieces typically have different aesthetic aims than those that feature three or fewer songs. The number of songs present is therefore a useful way to subdivide the genre.

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[1] This "immediate recognizability" factor holds true for every type of mashup but one. The exception to this rule, the paint palette mashup, will be discussed at length later in this chapter. This contrasts with electronic dance music and hip hop, which both rely on a more arcane mixture of samples.

Figure 1.1: Types of Reworking and Combining Popular Songs

	No interaction with other songs	**Primarily vertical superimposition**	**Both horizontal and vertical interaction**	**Primarily horizontal juxtaposition**
1 song, recognizable	Cover song	[Rare]	Remix, new arrangement	Collage, glitch pop
1 song, recognizable + new material	Impossible space	Changes in jazz music, sampling in hip hop, new harmonization of a song	Remix	Interpolated quotation
2 or 3 songs, all recognizable		Basic mashup, cover mashup	Basic mashup, cover mashup	Medley
3 or more songs, sometimes recognizable		[Rare]	Paint palette mashup, collage	Collage
Many songs, most recognizable		[Rare]	Megamix mashup, live DJ performance, collage	Collage
Many songs, sometimes recognizable + new material		[Rare]	Sampling in hip hop, live rap battles, megamix medley, collage	Interpolated quotation
New material only	New composition	New composition	New composition	New composition

The horizontal axis, by contrast, represents the way music interacts – either horizontally, vertically, or some combination of the two.[2] I use type of interaction as one axis because such interaction is fundamental to the mashup aesthetic. While remixes and collage music may function by juxtaposing music from different sources on a purely horizontal plane, one of the dominant characteristics of mashups is that they generally feature some amount of vertical overlap among the constituent songs.

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[2] It is worth noting that the horizontal axis represents the way the *music* interacts, not necessarily the way the samples are arranged.

Not all of the categories in Figure 1.1, however, would be considered mashups. My intention is to provide an overview of the "mashing" techniques and to examine how those techniques are deployed in mashups. In the process, I will discuss other types of music that use techniques characteristic of mashups, but not in the same way, in order to set these types apart and better define the mashup.

Throughout this chapter, I will refer back to Figure 1.1 as I discuss each of the categories. In general, I will proceed through the columns from top to bottom and then move left from right. However, it will occasionally be convenient to discuss those types that occupy multiple slots on Figure 1.1 all at the same time. The chapter will conclude with a basic typology of mashups.

COVER SONGS

A cover song is any recording or performance of a song by an artist other than the artist who recorded the "definitive" (usually first) version. Though not in common usage until the late 1960s,[3] the term "cover song" first began to emerge as a concept in the 1950s with the appearance of rock and roll and the aesthetic priority given to recordings over sheet music. Examples like "Please Mr. Postman" are quite clear: the song was originally recorded by the Marvelettes in 1961. The version that appears on the Beatles' second album, *With the Beatles*, in 1963 is a cover song. Determining which version is definitive and which is the cover song can get more complicated in cases like "Killing Me Softly with His Song." The first recorded version of that song was by Lori Lieberman in 1971. However, the version that became famous was Roberta Flack's recording from 1973, and most people think of this recording as the definitive edition of the song. A different issue arises in the case of "(You Make Me Feel Like) A Natural Woman." This song, written by Carole King and Gerry Goffin, was made famous by Aretha Franklin's 1967 recording. However, when King released her 1971 album, *Tapestry*, "(You Make Me Feel Like) A Natural Woman" was on it. So by singing a song that she wrote herself, did Carole King cover an Aretha Franklin song?

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[3] According to the *Oxford English Dictionary*, the first use of "cover" in this sense dates from 1966 (*Melody Maker* 23 July 1966).

Regardless of which adaptation a listener considers to be the authoritative recording of a song, the cover song fits easily in one square of the chart. "One song, recognizable" is its vertical category: a cover song never combines more than one song; it is simply a re-recording or reinterpretation of an already-existing song. Therefore its horizontal category is "No interaction with other songs." This is not to say that cover songs are necessarily meant to recreate a certain recording. There are sound-alike, or tribute, bands that do just this, but there are also artists who completely change the style of a particular song when they cover it. An example of the latter is the Gourds' version of Snoop Dogg's "Gin and Juice." What began as gangsta rap becomes country with the Gourds' new instrumentation and singing style.

NEW COMPOSITIONS AND GAPS IN THE CHART

The only other genre besides cover songs in the “No interaction with other songs” column is a new composition of original material. All the other slots in the “no interaction” column are empty because they are logically impossible categories – more than one song being used. New composition, using no previously existing material, can be found in other slots in the chart, too: namely, the entire row of the “New material only” category. The newly composed material, therefore, can interact with itself in various ways: vertically, horizontally, or both.

There are other gaps in the chart, too, mostly in the “Primarily vertical superimposition” column. Unlike the empty slots in the “no interaction” column, these other slots are not logically impossible; they represent instead extremely rare situations: composition and mixing and mashing, particularly in popular styles, tend to avoid vertically overlaying too many layers of songs. There are several reasons for this. First of all, when only one song is being cut up for collage music, a remix, a new arrangement, or glitch pop, the song is usually made to interact with itself on a mainly horizontal plane. Secondly, as more songs are added vertically, it becomes increasingly difficult to keep the mix from devolving into a cacophonous wall of sound: the more simultaneous layers, the more complicated, confusing, and undifferentiated the musical texture becomes, and consequently artists usually introduce variety by also employing horizontal interaction.

CHANGES AND NEW HARMONIZATIONS

A common manifestation of the “One song, recognizable + new material” category is found in jazz musicians’ use of chord changes. Jazz players often use the changes from a Broadway or Tin Pan Alley tune as the harmonic basis for new melodies, and to solo over. The standard tune is generally recognizable through the well-known changes, while the solos are new material. The resulting song is given a new name, like “Cotton Tail” by Duke Ellington, which is based on the chord changes from Gershwin’s “I Got Rhythm.” I place these sorts of derived tunes with jazz solos in the column labeled “Primarily vertical superimposition” because new melodic material interacts vertically with previously existing chords.

This particular slot of the chart also includes a procedure that J. Peter Burkholder argues was typically used by Charles Ives: fitting a new accompaniment to an existing tune.[4] In one respect, this is the opposite procedure of jazz changes, where the harmony is kept invariant and the tune is changed. Burkholder illustrates Ives’s procedure with *March No. 1 in F and Bb*, which draws on Frank Dumont’s “That Old Cabin Home Upon the Hill.” Ives reharmonizes Dumont’s tune and overlays a new countermelody on it. Such reharmonization is a typical practice in many traditions, including song arrangement.

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[4] J. Peter Burkholder, *All Made of Tunes: Charles Ives and the Uses of Musical Borrowing* (New Haven: Yale University Press, 2005), 3.

SAMPLING IN HIP HOP

Sampling is an ambiguous term. Technically, a “sample” is a short digital recording of a sound, and the term has its origins in sampling keyboards from the 1980s, which operated by recording and digitally manipulating sounds. Later the term was broadened to include recording and digital manipulation of sounds via computer software. Sampling differs from sound synthesis in that the former’s source lies outside the sampling machine or software whereas a synthesized sound is produced within the machine or software. The terms are not always easily separated, however, in that samples can be heavily manipulated in the machine or software to the extent that the original sample is unrecognizable and sound synthesis can be used to create sounds that mimic preexisting sounds (say, a flute or strings). Moreover, “sample” has a less technical meaning of using a recognizable musical figure from another recording.

One particular type of sampling used commonly in hip hop also fits into the same slot as jazz changes and new harmonization. MC Hammer’s “U Can’t Touch This” (1990) exemplifies this type of sample, which consists of a “looped” (repeated over and over) four-bar segment of bass, keyboard, and percussion from the beginning of “Superfreak” by Rick James. Hammer then raps new material over this sample. Conceptually, the result is akin to jazz musicians’ use of chord changes. Of course, this type of sampling is only one type that is used in rap.

The most common variant of sampling (which still falls into the same slot in the chart: 1 song, recognizable + new material/Primarily vertical superimposition) involves the use of a cover song, especially the so-called “sound-alike,” a kind of cover recording that seeks to reproduce another recording as closely as possible. For obvious legal reasons and not always obvious aesthetic reasons, this type of cover song is frequently used in place of a literal sample. In fact, when used as material in hip hop songs, sound-alikes will often be called “samples,” even though they are not technically “sampled” from another commercial recording, but are instead a recreation of it. “Rapper’s Delight” by the Sugarhill Gang, for instance, recreated note-for-note in a studio part of the music (bass, guitar, and keyboard) from Chic’s “Good Times” and used it as a background over which to rap, just as Hammer used the four-bar segment of “Superfreak.” While the use of “Good Times” in “Rapper’s Delight” is not technically a sample, the musical effect is more or less identical. Because of this, we can consider sampling and sound-alikes as two distinct production techniques for creating the same basic musical gesture, the primary motivation of which is the effect of quoting a particular recording. In the case of “Rapper’s Delight,” the song references a TV show about a working class black family living in a housing project, and that reference remains, regardless of the fact that the musicians who played the song for the show do not play it on the Sugarhill Gang recording. To the extent that “Rapper’s Delight” has successfully recreated the sound of Chic, we hear it as quoting Chic, not as a different performance of “Good Times.” Whenever the aim of the quoting artist seems to be to recreate the sound of a particular recording in this way, I will use “sample” and “sampling,” regardless of whether it is technically produced through sampling or sound-alikes.

The hip hop songs mentioned so far use samples only from one recording, but groups like Public Enemy became famous for creating “manic collages” that “fused dozens of fragments to create a single song.”[5] This type of song involves both horizontal and vertical interaction, and puts sampling into the “Many songs, sometimes recognizable + new material” row. Hank Shocklee, part of the Bomb Squad company that produced Public Enemy’s recordings, draws an analogy between sampling and traditional popular song arrangement: “To fill the gap where the bass, drums, keyboards, and horn left off, a lot of companies in the ‘70s put an orchestra behind the singers. Public Enemy does the same thing, but instead of hiring an orchestra, we fill the space with samples.”[6] Certainly, most of the samples that Public Enemy uses are not as recognizable as “Good Times” in “Rapper’s Delight.” In fact, the Bomb Squad’s technique works against the very intelligibility of quotation: they take very small pieces from recordings and manipulate them so that they often sound completely different than they did in their original context. For Public Enemy, the point of using a sample is usually not to make a connection with some piece of popular culture and draw off of those references, but to create a fast-paced soundscape of perhaps barely recognizable noise.[7] The group consists of composers or sound artists who make music by using small pieces of previously recorded music as building blocks for a song’s soundscape. “Don’t Believe the Hype,” for example, contains a high-pitched squeal that repeats many times. It is very short, only about a second long, and it sounds like a sped-up trumpet. The origin of the sample, however, is not immediately apparent, so presumably it is not attempting to reference any particular recording.

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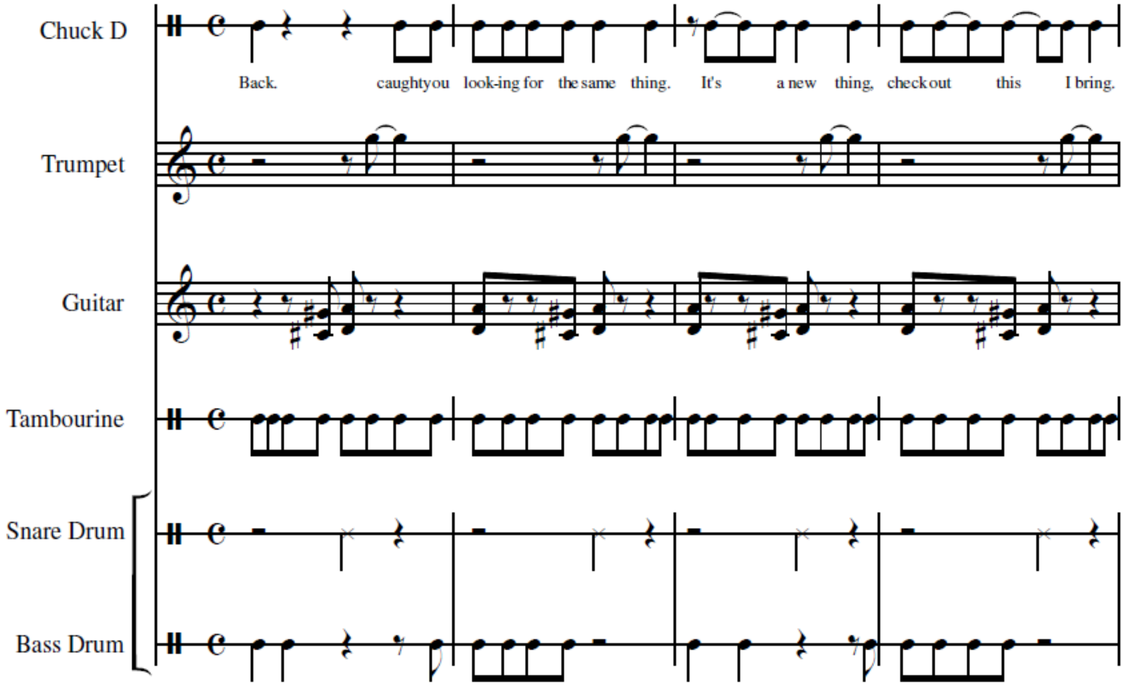
[5] McLeod, *Freedom of Expression (R)*, 68.

[6] Hank Shocklee, quoted in Mark Dery, “Public Enemy: Confrontation,” *Keyboard*, September 1990, 83.

[7] Although they did use samples to do the former, as well. See, for example, “She Watch Channel Zero” from *It Takes a Nation of Millions To Hold Us Back* (1988).

Because rapping involves chanting a text over a musical background, some sort of vertical superimposition between the rap and musical background is inevitable. Horizontal juxtaposition of different musical materials also occurs, both between the vocal line and the samples, and between samples themselves, if more than one is used. Example 1.1 shows four bars from the beginning of Public Enemy's "Don't Believe the Hype" from their 1988 album *It Takes a Nation of Millions to Hold Us Back*. Everything except Chuck D's vocal line is a sample. Notice the horizontal juxtaposition between the guitar and the trumpet, not because the samples are placed next to one another, but because the sounds do not occur simultaneously; and the vertical combination of the percussion instruments with the rest of the texture.

Example 1.1: Public Enemy, "Don't Believe the Hype,"
(0:09-0:14), transcription by author


Chuck D
Back. caughtyou look-ing for the same thing. It's a new thing, check out this I bring.
Trumpet
Guitar
Tambourine
Snare Drum
Bass Drum

BASIC MASHUPS AND COVER MASHUPS

The slot defined by "primarily vertical" and "2 or 3 songs, all recognizable" includes the "basic mashup," which draws its sound exclusively from other recordings, and the "cover mashup," which combines cover versions of 2 or 3 popular songs.[8] Neither of these types introduces new material, and due to the extensive vertical interaction, they generally restrict themselves to only two or three songs.

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[8] "Basic mashup" and "cover mashup" are my own terms.

Both these types of mashups excerpt fairly long sections of music, typically at least an entire verse or chorus of the song. This allows these mashups to retain something of the underlying structure of the quoted songs, especially the basic verse-chorus structure.[9] For example, Soulwax's "Push it Like a Dog," a basic mashup, uses the vocals from Salt-n-Pepa's "Push It." A full verse and two choruses are heard before the vocals become a bit more fragmented. Salt-n-Pepa's rapping, however, is taken out of its original context and placed over both instrumentals and vocals from the Stooges' "No Fun."[10] Although dominated by vertical superimposition, Example 1.2 shows an amusing moment of horizontal juxtaposition as well, as Iggy Pop sings "Well, come on," seemingly in response to Salt-n-Pepa's "Push it good."

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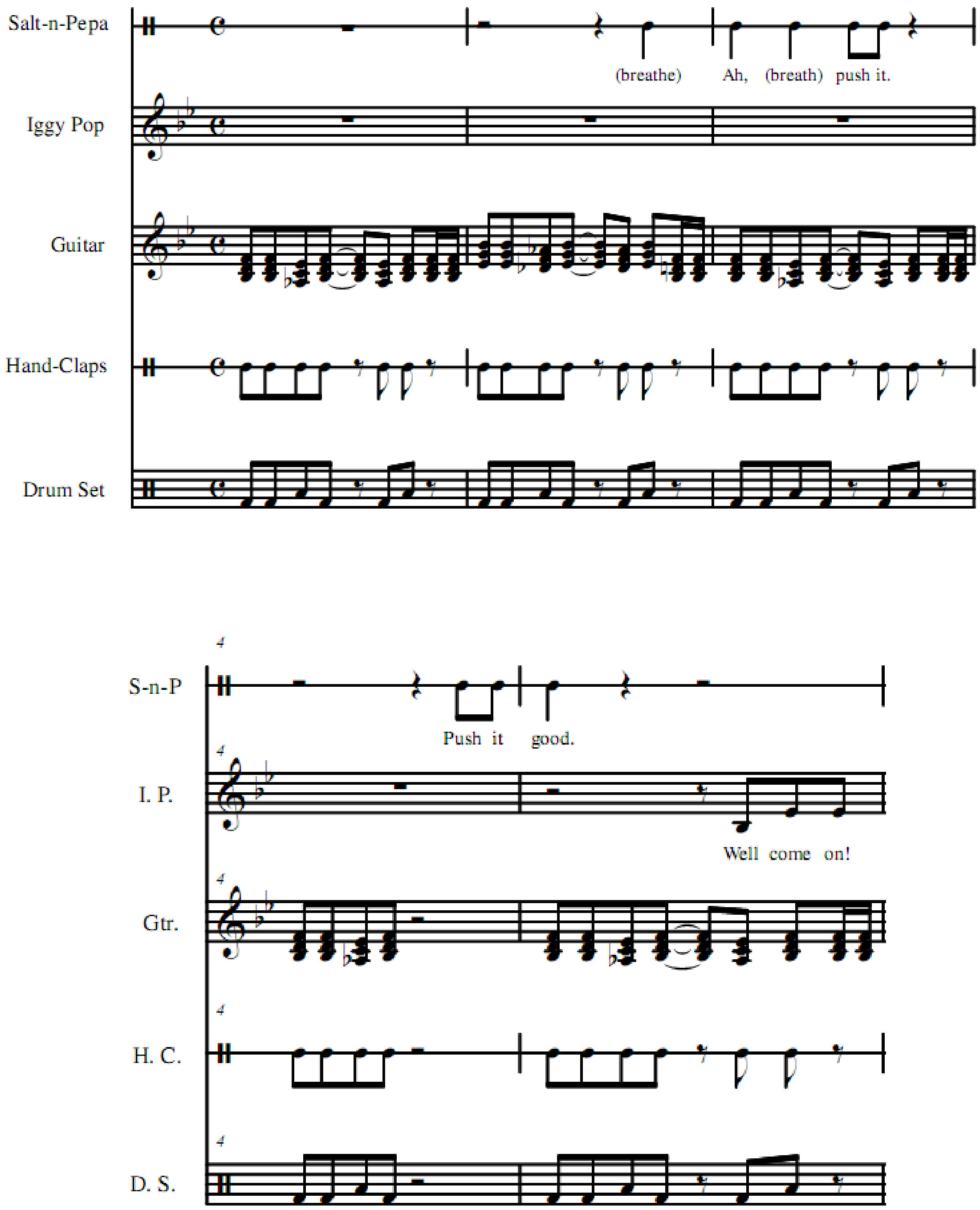
[9] McGranahan, "Mashnography," 45.
More about the structure of mashups can be found in Chapter 4.

[10] The title of the mashup, strangely, is a reference to a different Stooges song, "I Wanna Be Your Dog."

Example 1.2: Soulwax, "Push it Like a Dog," (1:23-1:33), transcription by author

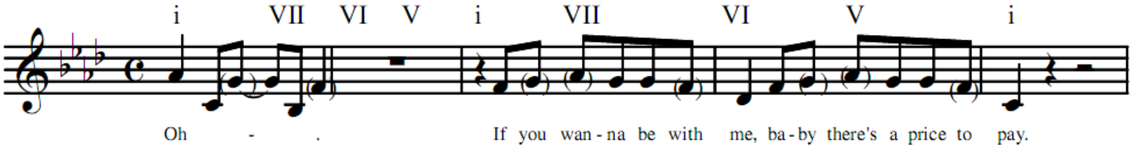


Salt-n-Pepa
Iggy Pop
Guitar
Hand-Claps
Drum Set
(breathe)
Ah,
(breath)
push it.
4
S-n-P
I. P.
Gtr.
H. C.
D. S.
Push it
good.
Well come on!

Later in the song, Iggy responds even more explicitly, “yeah!” when they order him to “push it.” Such isolated moments of horizontal juxtaposition do not affect the dominant relationship between the songs as vertical superimposition; the majority of this song features rap from one song on top of instrumentals from another song.

Pitched vocals, in addition to rap, can also be used in a basic mashup. DJ Freelance Hellraiser’s “A Stroke of Genie-us,” for instance, isolates Christina Aguilera’s vocal line from “Genie in a Bottle” and places it on top of the instrumentals from the Strokes’ “Hard to Explain.” Example 1.3 shows a short section of “Genie in a Bottle” with the original accompanying harmonies in F minor indicated above the music. Non-chord tones with respect to the original harmonies are shown in parentheses.

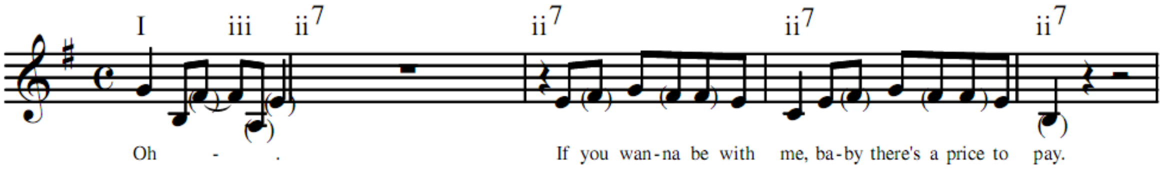
Example 1.3: Christina Aguilera, “Genie in a Bottle,”
(0:41-0:52), transcription by author



The Strokes’ song, by contrast, is in G major. To fit Aguilera’s voice to the Strokes’ instrumentals, DJ Freelance Hellraiser first isolated the vocal line from its original setting (either by obtaining the original studio tapes or through manipulation of the recording) and then transposed her recording down a half step to E minor, so that the two songs are based on the same diatonic pitch collection. Example 1.4 shows the same passage as

Example 1.3, now transposed down a half step, with the chords from the Stokes' accompaniment (in G major) indicated above the staff and the non-chord tones indicated again in parentheses.

Example 1.4: DJ Freelance Hellraiser, "A Stroke of Genie-us,"
(1:06-1:18), transcription by author



By placing this melody in a major context, DJ Freelance Hellraiser has subtly shifted its tonal balance: the way the vocal line fits with the harmonies, its points of tension and release, are different in the context of the mashup. Some non-chord tones have become chord tones, and vice-versa, whereas others have stayed the same.

The basic mashup is by far the most common type of mashup. When a basic mashup includes only two songs, like "Push it Like a Dog" and "A Stroke of Genie-us," they are often referred to in the community as "A vs. B" mashups, placing the two artists in direct confrontation with each other.[11] However, since the construction principles remain largely the same when a third song is added to the mix (an example of which will be seen later in the chapter), I have placed both A vs. B mashups and three-song mashups together under in the category of basic mashup.

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[11] Taylor Edelhart, "Music Mashups," *The Lowell*, February 19, 2010.

Cover mashups function in the same way that basic mashups do, but they are constructed differently. While a basic mashup uses recordings as its medium, a cover mashup uses no previously existing recordings. Either for legal or aesthetic reasons, an artist making a cover mashup performs all of the songs involved him- or herself, and records the end result.[12] The interaction between songs is the same – mostly vertical – but a single band or artist is performing this interaction simultaneously. Example 1.5 shows an excerpt from Alan Copeland's cover mashup "Mission: Impossible Theme/Norwegian Wood."

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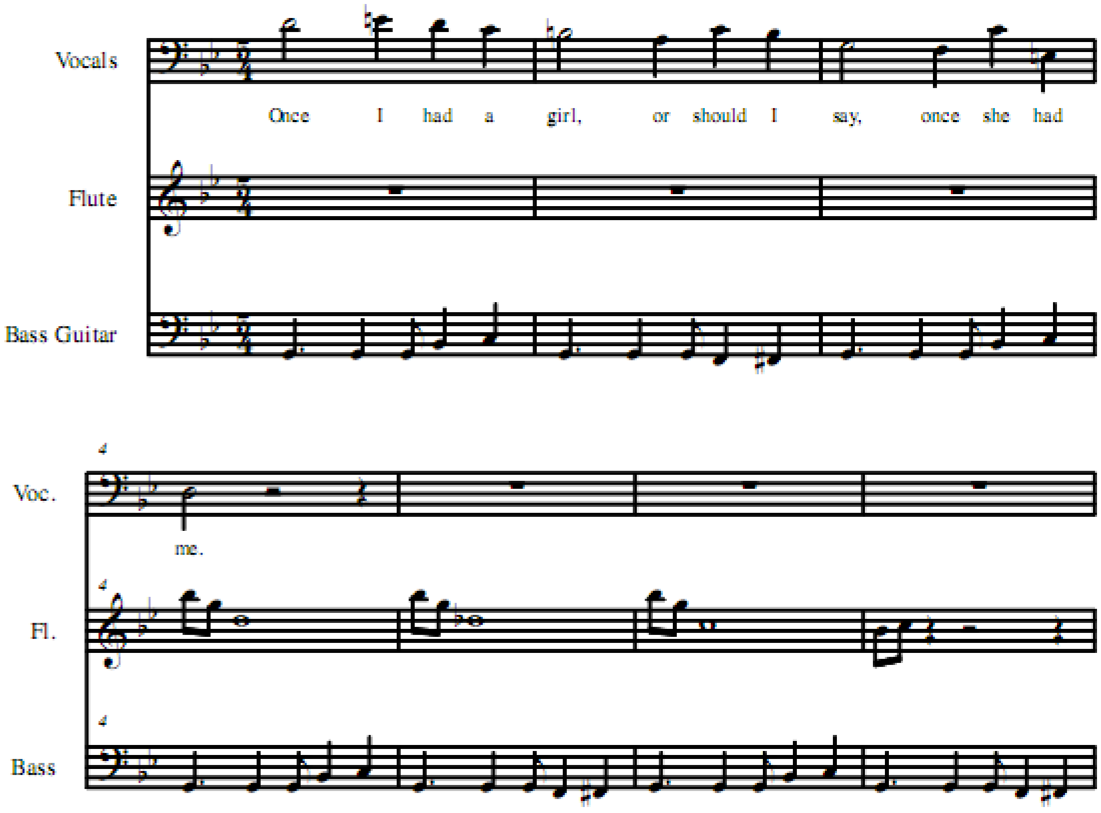
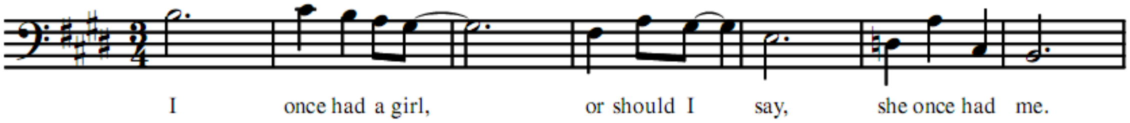
[12] The cover versions used in this type of mashup are not sound-alike recordings. It is obvious to the listener that the songs involved are not the definitive recordings that they are familiar with.

Example 1.5: Alan Copeland, "Mission: Impossible Theme/Norwegian Wood,"
(0:06-0:17), transcription by author


Vocals
Once I had a girl, or should I say, once she had
Flute
Bass Guitar
4
Voc.
me.
4
Fl.
4
Bass

Because one of the most distinctive features of the "Mission: Impossible" theme is its $\frac{5}{4}$ meter, Copeland had to adjust the original triple meter of "Norwegian Wood" accordingly. Example 1.6 shows the original opening of the first verse.

Example 1.6: The Beatles, "Norwegian Wood (This Bird Has Flown)," (0:16-0:22), transcription by author



Copeland has compressed the odd-numbered measures by shaving off a beat. He has also adjusted the rhythms of the even-numbered measures so that each note falls on the beat. Two measures of "Norwegian Wood" then fit neatly into the $\frac{5}{4}$ meter of "Mission: Impossible." Like DJ Freelance Hellraiser's "A Stroke of Genie-us," Copeland's mashup also combines songs that are cross-modal. Rather than transposing the songs into relative keys, as Hellraiser did, however, Copeland has allowed them to stand in parallel keys, with the same tonic (G, in this case). The arrangement is such that the songs never offer a direct conflict between the two modes. Instead, Copeland's mashup seems to oscillate between modes.[13] Example 1.5 also illustrates that "Mission: Impossible/Norwegian Wood" employs some horizontal juxtaposition (the entrance of the flute) along with the more dominant vertical superimposition.

As Figure 1.1 indicates, we can also find both basic and cover mashups under the "Both horizontal and vertical interaction" column. This reminds us that there is a continuum from "Primarily vertical" to "Both horizontal and vertical" (and indeed to "Primarily horizontal) but mashups involving three songs, rather than two, usually lean more toward the "Both horizontal and vertical" side, simply because combining more than two songs vertically can often leave the impression of a confusing mass of sound. Even when parts from three different songs play simultaneously, I know of no example where more than one vocal line sounds simultaneously for any length of time. This treatment of the voice ensures that the lyrics always remain intelligible, which is an important constructive principle of the genre.[14] During mashups with both horizontal and vertical interaction, the horizontal interaction takes place mainly between vocal parts from different songs. Example 1.7, "Hurts Like Teen Spirit," is an excellent illustration of such horizontal interaction.

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[13] More information about combining songs in different keys and modes can be found in Chapter 4.

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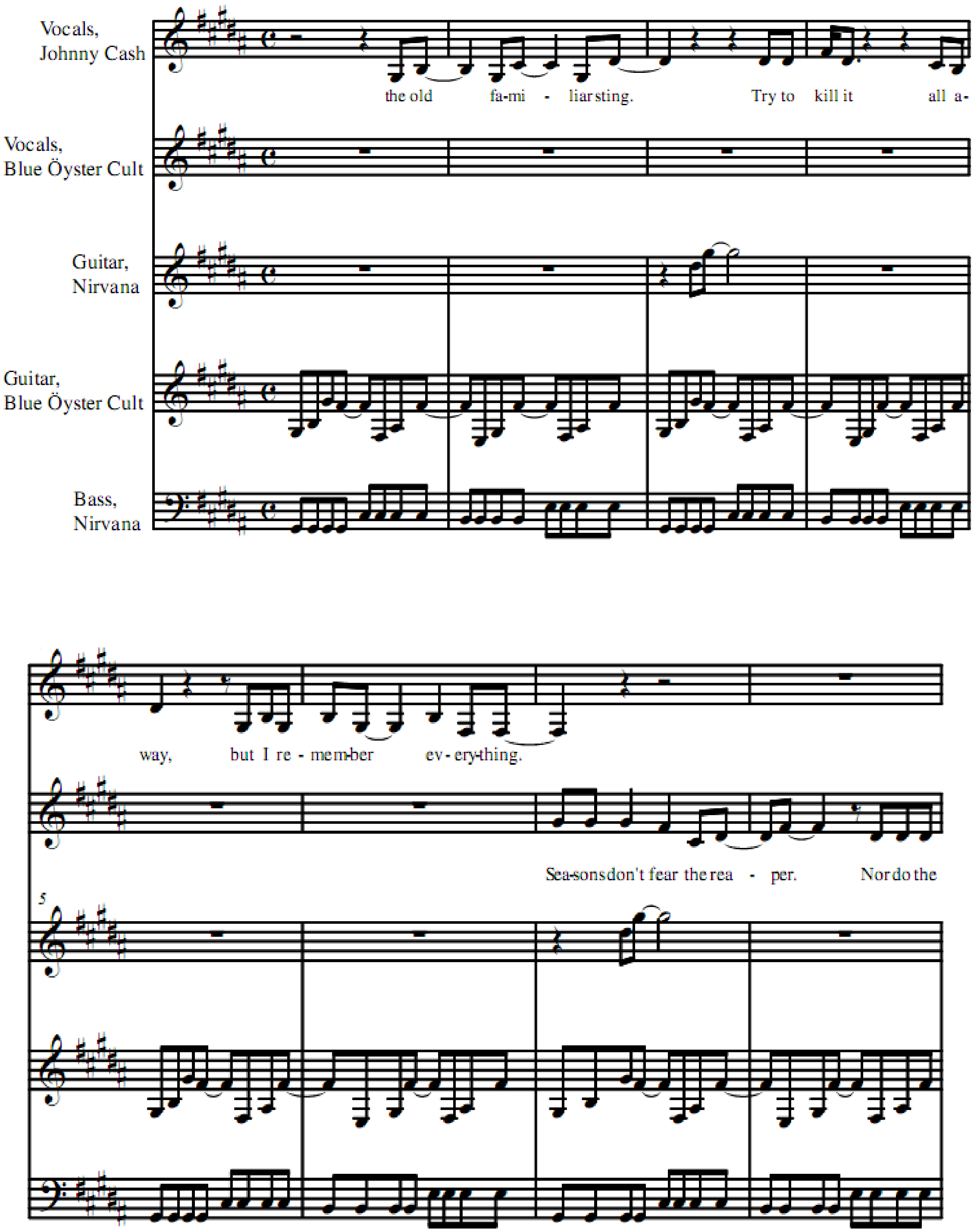
[14] This will be discussed in greater detail in Chapter 4.

Example 1.7: DJ Dangerous Orange, "Hurts Like Teen Spirit,"
(0:44-0:59), transcription by author


Vocals, Johnny Cash
Vocals, Blue Öyster Cult
Guitar, Nirvana
Guitar, Blue Öyster Cult
Bass, Nirvana
the old fa-mi - liar sting. Try to kill it all a-
way, but I re - mem-ber ev - ery-thing.
Sea-sons don't fear the rea - per. Nor do the
5

This basic mashup includes music from three songs: “Smells Like Teen Spirit” by Nirvana, “(Don’t Fear) the Reaper” by Blue Öyster Cult, and “Hurt” by Johnny Cash (itself a cover of a Nine Inch Nails song). From the beginning of the example, parts of all three songs are heard together, interacting vertically. “Hurts Like Teen Spirit” also uses some horizontal juxtaposition, mainly as Cash and Eric Bloom, the lead singer of Blue Öyster Cult, trade vocals. (The first instance of this vocal trading is shown at the end of the example.) Horizontal juxtaposition also appears between Cash’s voice and Nirvana’s lead guitar part. As Cash finishes a phrase, the guitar answers with a two-note riff that fills the space before he comes back in.

The slot containing basic mashups and cover mashups also includes the quodlibet, which J. Peter Burkholder describes as “combining two or more existing tunes or fragments in counterpoint or quick succession,”[15] in other words, vertically or horizontally, just like in a mashup. Indeed, it might be argued that a quodlibet is a written-out version of a mashup.[16]

REMIXES AND NEW ARRANGEMENTS

A remix is a new version of an already recorded song. There are several different types of remixes. One variation can be found in the “1 song, recognizable” row. In this case, the remix changes elements of the song without adding anything fundamentally new. For example, dance club remixes are made to extend the length of a two to three minute pop song. This is typically done by taking a section without vocals – usually four, eight, or sixteen bars – and looping it over and over again to make the song longer. Sometimes the end of a song is made to lead right back into the beginning again. Remixes can also change parts of the mix by bringing certain elements more to the foreground and bringing down, or even deleting, other parts. For example, the vocals might be moved to the background, and the percussion made much louder in order to make the track sound heavier and more beat-oriented. Different parts of the track are sometimes overlapped as well, for instance, a one-bar vocal loop might occur over and over again as the guitar solo is heard. This accounts for vertical, as well as horizontal interaction between the track and itself.

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[15] Burkholder, *All Made of Tunes*, 3-4.

[16] The quodlibet will be discussed in more detail in Chapter 3.

An example of a remix like this is the extended remix of Madonna's "La Isla Bonita" (1987). A chart showing the formal structure of both the original song and the remix is shown in Figure 1.2.

Figure 1.2: Formal Structure of Two Versions of Madonna's "La Isla Bonita"

Album Version		**Extended Remix**	
Formal Section	*Number of bars*[17]	*Formal Section*	*Number of bars*
Introduction	8	Introduction	28 (includes 2 bars of $\genfrac{}{}{0pt}{}{2}{4}$)
Verse	8	Verse	8
Chorus	8	Chorus	8
Guitar solo	4	Guitar solo	4
Verse	8	Verse	8
Chorus	8	Chorus	8
Guitar solo	4	Guitar solo	4
Bridge	9	Bridge + vamp	13
Synthesizer solo	4	Synthesizer solo	4
Verse	4	Verse	4
Chorus	8	Chorus	8 (plus one bar of $\genfrac{}{}{0pt}{}{2}{4}$)
Chorus	8	Chorus	8 (plus one bar of $\genfrac{}{}{0pt}{}{2}{4}$)
Chorus	8	Chorus	8 (plus one bar of $\genfrac{}{}{0pt}{}{2}{4}$)
		Outro	26 (includes 2 bars of $\genfrac{}{}{0pt}{}{2}{4}$)

The sections that are different between the two versions are highlighted in pink. The most extensive differences are found in the much-longer introduction of the remix and its addition of a coda (or "outro," as it is called in popular music) at the end of the song. These additions, plus the other minor changes in the body of the song, end up adding one minute and 39 seconds to its length. Both the extended intro and the outro consist of material from the original version of the song. They are both made up mainly of music from the song's chorus – percussion, synthesizer, guitar, and backing vocals – but Madonna's lead vocal is absent. The backing vocals (on "ah") and percussion are completely isolated for the very beginning and end of the song.

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[17] Unless specified otherwise, all bars are in $\genfrac{}{}{0pt}{}{4}{4}$ time.

But not all remixes use only the material in the original song in order to make a different version of it; some add new material as well. Therefore, remixes can also be found one row down in the "1 song, recognizable + new material" slot. This type of remix should not be confused with a mashup – the material added to the song that is being remixed is *new* material; it is not being taken from another previously recorded song. An early example of this is Roberta Flack's 1988 song "Uh-Uh Ooh-Ooh Look Out (Here It Comes)." The original version of the song was a medium-tempo ballad, Flack's voice accompanied by synths, guitars, and light percussion playing easy-listening style. The remix, made by DJ Steve "Silk" Hurley, was designed to take the ballad to the dance floor. Hurley isolated Flack's vocals from the rest of the instrumentals, and substituted his own newly-composed sequenced background of a dance beat, handclaps, a repeated bass note, and some other minimal harmonic and melodic material. This new material provides a new accompaniment to the vocal line from the original track (vertical interaction). The vocal line is also necessarily placed in a horizontal relationship with some of the new material. It is worth pointing out that this type of remix is very similar to the basic mashup: two songs interacting with each other on a mainly vertical plane. However, the remix remains a separate category because of one important factor: the addition of new material. A piece must use *only* music from other recordings to be considered a mashup.

Making a new arrangement of a song fits in the same slot as the first type of remix (illustrated by "La Isla Bonita"): 1 song, recognizable + both horizontal and vertical interaction. In this case, an arranger takes a song and makes a new version of it through changed instrumentation, adding backing vocals, altering the tempo or time signature, and even reworking the formal structure. For example, Maurice Ravel famously orchestrated Modest Mussorgsky's *Pictures at an Exhibition*, making an orchestral piece out of the piano original. Popular songs almost always involve some sort of arrangement, though if a song originates in the studio, the arranging process usually falls under the work of the producer. Any cover version of a song will also technically be an arrangement; the question of whether a cover version should be placed in this slot or under "No interaction" depends on how closely it follows the original. When the amount of arranging work is significant, the result can have both vertical superimposition and horizontal juxtaposition between its parts. However, most new arrangements still fit in the "1 song, recognizable" row, since there is generally little significant new material being added.[18]

PAINT PALETTE MASHUPS

The slot where "3 or more songs, sometimes recognizable" and "Both horizontal and vertical interaction" meet includes the "paint palette mashup." This is a term that I derived from a quote by Lawrence Lessig. In *Remix*, Lessig argues that the *Grey Album* by DJ Danger Mouse "is not simply copying. Sounds are being used like paint on a palette. But all the paint has been scratched off of other paintings."[19] The *Grey Album* (2004) is a combination of the so-called *White Album* by the Beatles and the *Black Album* by Jay-Z. Danger Mouse uses Jay-Z's vocals in their entirety, and the musical background is formed exclusively out of the Beatles' music. Anywhere from one to three Beatles songs make up each track. In some cases the samples are recognizable, but in many cases they are not. It is especially difficult to determine the origins of the drum beats, since each hit is isolated. Lessig likens this type of mashup to painting with songs, because Danger Mouse has taken individual notes from the Beatles' songs and has drawn something completely different out of them. Example 1.8 shows a portion of "Julia" by John Lennon and Paul McCartney. Example 1.9 shows a portion of "Dirt Off Your Shoulder" from the *Grey Album*.

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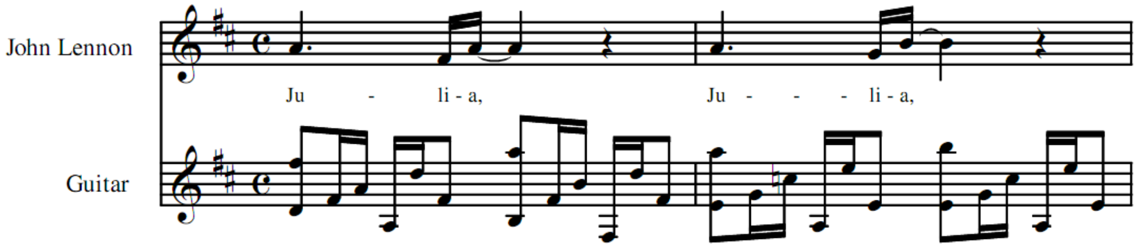
[18] An exception to this is a new harmonization of a song, which has already been discussed. Although new harmonization can fall into the category of "new arrangement," it clearly belongs in a different square of the chart, since new material is being added.

Example 1.8: The Beatles, "Julia," (0:14-0:21)[20]



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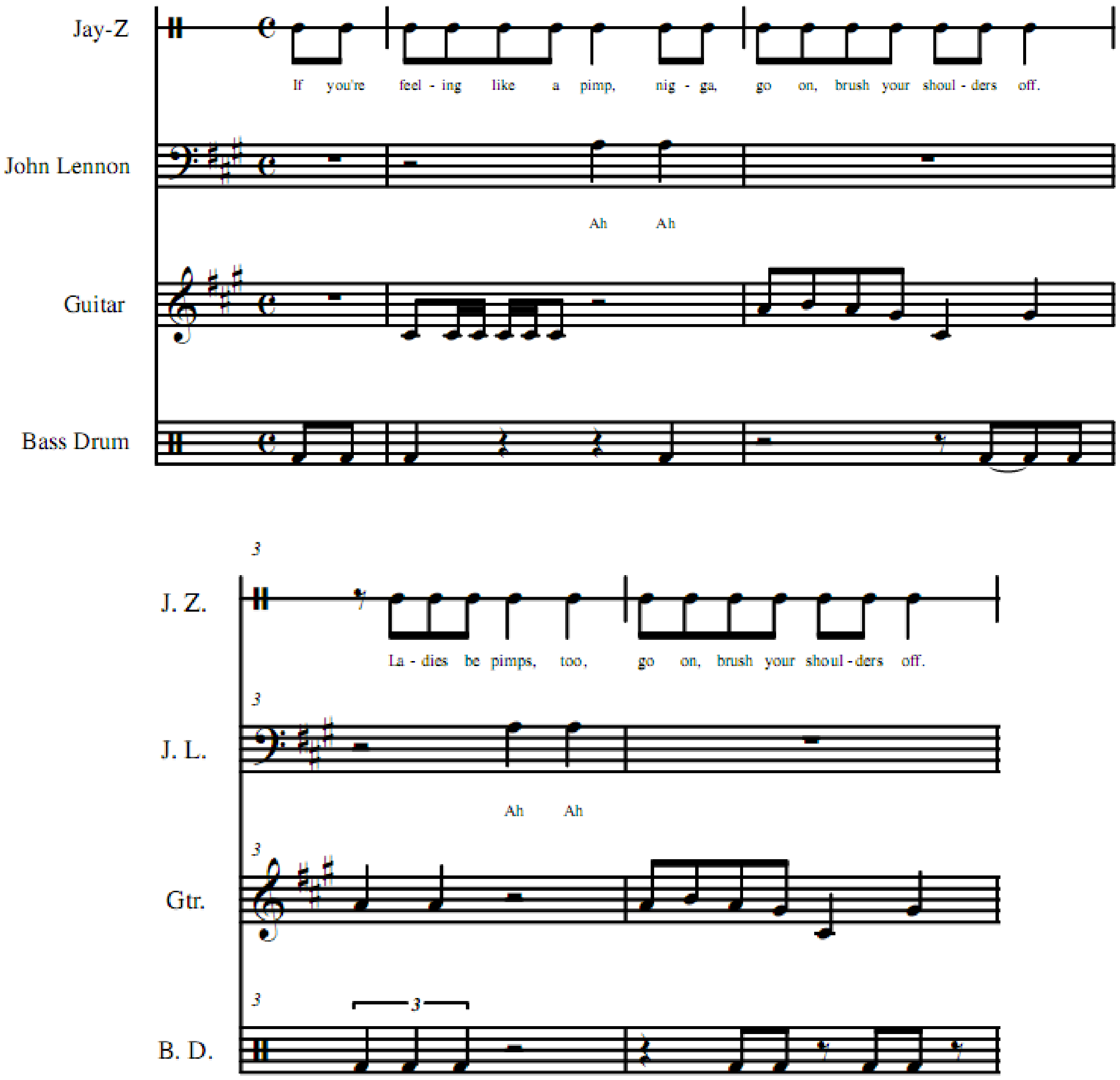
[19] Lessig, *Remix*, 70.

[20] *The Beatles Complete Scores* (Milwaukee: Hal Leonard Corporation, 1993), 587.

Example 1.9: DJ Danger Mouse, “Dirt Off Your Shoulder,”
(0:22-0:29), transcription by author


Jay-Z
If you're feel - ing like a pimp, nig - ga, go on, brush your shoul - ders off.
John Lennon
Ah Ah
Guitar
Bass Drum
3
J. Z.
La - dies be pimps, too, go on, brush your shoul - ders off.
J. L.
Ah Ah
Gtr.
B. D.
3

An additional percussion part has not been included, because it is not relevant to my discussion. I have tracked down (or can make educated guesses at) the origins of all of the voice and guitar notes that occur in “Dirt Off Your Shoulder.” The “Ah” that John

Lennon sings, for example, most likely derives from the last syllable of the word "Julia" in the Beatles recording. The guitar part does not derive exclusively from the portion of "Julia" I excerpted in Example 1.8, but each of the guitar notes in "Dirt Off Your Shoulder" does indeed come from the song. This example illustrates that both horizontal and vertical interaction occur in this type of mashup. In the case of the *Grey Album*, the vertical superimposition occurs between Jay-Z's vocals and the Beatles' music, and the horizontal juxtaposition occurs mainly between the Beatles' samples themselves.

The paint palette mashup is somewhat of a deviation from the other types of mashup. It is by far the rarest type of mashup, and as previously mentioned, it is the only type of mashup where recognizability of the sampled songs is not a primary consideration in its construction. The paint palette mashup is therefore more esoteric in appeal, relying more heavily on insider knowledge of its source material. However, sometimes that "insider knowledge" is intentionally revealed. When the *Grey Album* was released, for instance, its name and iconography announced exactly what it was: The Beatles plus Jay-Z. The original album cover was designed to look like the Beatles' *White Album*, except that it was gray, and the words "DANGER MOUSE" were printed at the bottom, in place of "THE BEATLES." After the album began to be distributed on the internet, artist Justin Hampton designed a new cover that more clearly recognized the other component of the source material: a cartoon portrait of Jay-Z with the Beatles.[21] These covers are important because they establish the context for the album, giving listeners substantial clues as to where they should search for the source material. Nevertheless, the result was a very substantive transformation of that source material. Indeed, Danger Mouse offered the following claim on his website for the disbelievers: “Every single kick, snare, and chord is taken from the original Beatles recording.”[22]

---

[21] Mark Willis, "Will DJ Danger Mouse Become the Che Guevara of Fair Use in the Digital Sampling Age?," *Fair Use Lab: Re-Imagining Accessibility & Disability in the Public Sphere*, March 13, 2010, http://fairuselab.net/2010/03/13/will-dj-danger-mouse-become-the-che-guevara-of-fair-use-in-the-digital-sampling-age/ [accessed 30 April, 2011].

COLLAGE MUSIC

Collage music is the category found in the most slots of Figure 1.1 – six. This is so because it is such a varied type of music. Collage is generally considered to be any music that includes quotations or borrowings from a variety of different sources.[23] Therefore, composers can make music interact in many different ways and still have it fall into the category of collage.[24] Indeed, a single composer who specializes in collage music, like John Oswald, can write music that occupies many of the slots on my chart. Some collage music can be found in the “1 song, recognizable” row, because a composer can make a new piece out of just one previously recorded song. In this case, the interaction between different parts of the song occurs on a primarily horizontal plane. An example of this type of collage is “Birth” by John Oswald from his *plunderphonic* album. Oswald used a recording of the song “Birthday” from Beatles *White Album* to construct his new piece. The most noticeable thing about “Birth” is that Oswald has not used any of the vocals. He has cut and pasted various pieces of the guitars, drums, and tambourine to construct a very percussion-heavy, non-melodic song. Oswald famously uses his collages as a format to distill the essence of a particular track. For example, his track "Spring," also from *plunderphonic*, uses a recording of Stravinsky's *Rite of Spring*. Oswald takes Stravinsky's pounding polychords to an even greater extreme than their original setting: he speeds them up, changes the rhythms, and repeats them for an almost uncomfortably long period of time. So Oswald's statement about "Birthday," one supposes, could be that it is in essence *about* the percussion and guitar sound, and not so much about the words. In fact, Oswald argues that "the average person will realize they're hearing a familiar recording long before the melody makes its signature, or the singer gets to the words. The timbre of the recording, or its sound, is the trigger."[25]

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[22] Kembrew McLeod, “Confessions of an Intellectual (Property): Danger Mouse, Mickey Mouse, Sonny Bono, and My Long and Winding Path as a Copyright Activist- Academic,” *Popular Music and Society* 28, no. 1 (February 2005): 80.

[23] J. Peter Burkholder, “Collage,” *Grove Music Online* [accessed 30 April, 2011].

[24] In fact, based on the most general definition of collage music, mashups could actually be considered a species of collage.

Collage music, in addition to the type discussed above, can also be found in the "three or more songs, sometimes recognizable" row. Examples can be found in which the material interacts in a primarily horizontal fashion, as well as a combination of horizontal and vertical interaction. An instance of this type of collage by Oswald is the track "Black," which features only sounds from James Brown records and uses primarily horizontal juxtaposition. Oswald takes percussion hits, chords from the horn section, and Brown's exclamations ("Huh!" "Yeah!" etc.) and constructs a new track from these characteristic snippets. Although I have placed this type of abstract mashup as being made up of "sometimes recognizable" songs, it should be clear from the timbre alone

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[25] Norman Igma, "Recipes for Plunderphonics: An Interview with John Oswald, Part 1," *Musicworks* 47 (1990): 4.

(which Oswald places great importance on) that the source material *is* generally recognizable as being James Brown. However, it is not always obvious to the average listener which specific song each sample comes from.

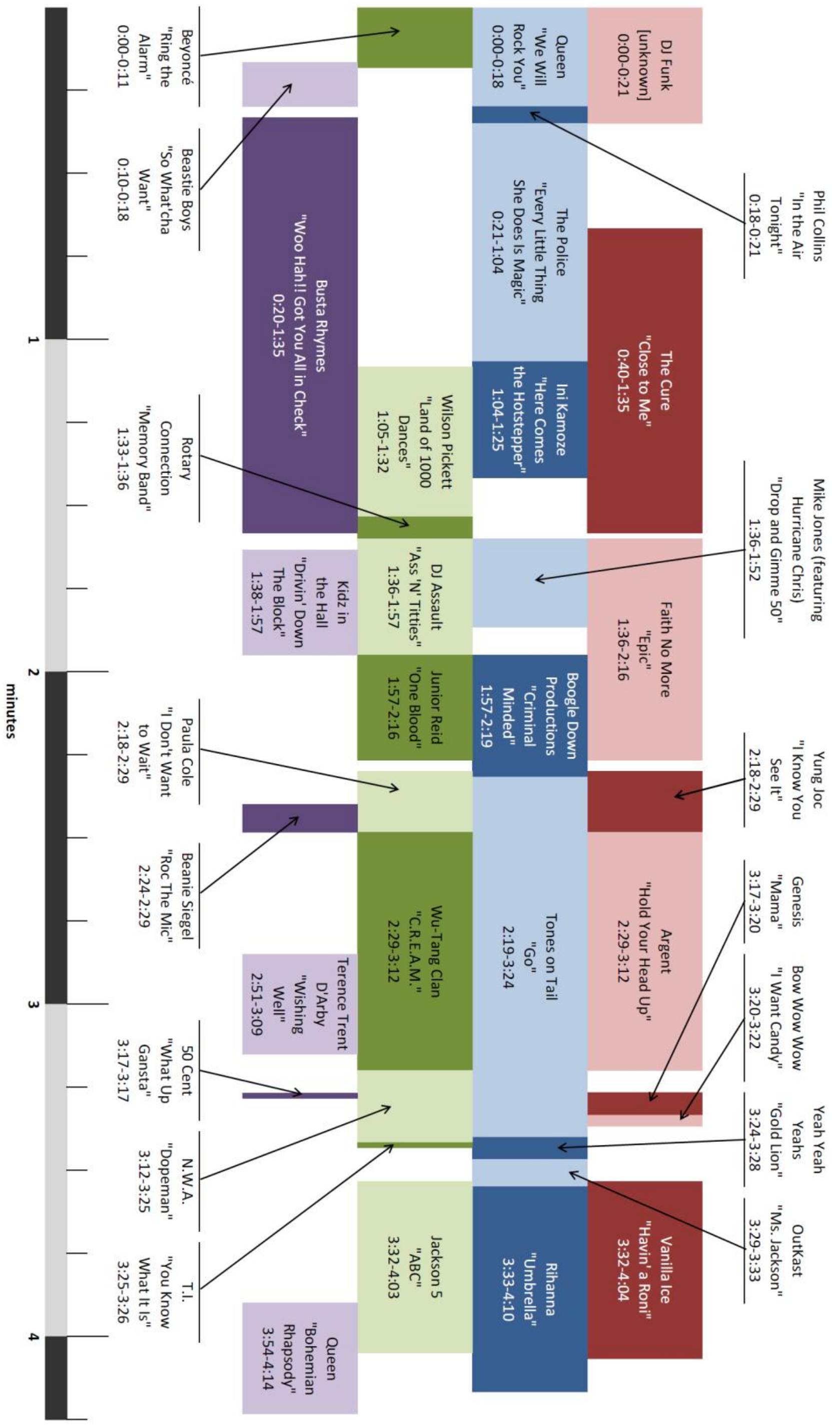
Collage music is also found in the next row down: “Many songs, most recognizable.” While the exact origins of the samples in “Black” are hard to track down, Oswald’s track “Net” is made up of fragments from Metallica’s album *One*, the most recognizable pieces coming from “Blackened,” “One,” and “Harvester of Sorrow.” Here, Oswald uses short drum hits too, but most of the guitar samples are longer, making it easier to identify the specific source song.

Collage can also include portions of newly-composed music. For example, “Revolution 9” on the Beatles’ eponymous 1968 album contains various snippets of music, dialogue, and sound effects from the collection of records belonging to EMI (the company that owned the Beatles’ record label). But it also features some newly recorded material, like John Lennon’s voice, that interacts with the borrowed sounds. Although the examples I have cited so far use only recordings, collage music can be created using sections of notated music as quotations as well. One of the most famous collage pieces is the third movement of Luciano Berio’s *Sinfonia* from 1968, which falls into the “Many songs, sometimes recognizable + new material” row and uses both horizontal and vertical interaction. Berio uses almost the entire third movement of Mahler’s second symphony, with quotations from many other composers (in addition to his own newly-composed material) interacting both vertically and horizontally with Mahler’s music and with each other.

MEGAMIX MASHUPS

What I call a “megamix mashup” differs from the basic mashup in that it includes many more songs. An artist like Girl Talk, for instance, can include music from as many as 30 songs within a single track. Angela Watercutter assembled a diagram of all the samples used in Girl Talk’s “What It’s All About” from the album *Feed the Animals*. Watercutter asked Gregg Gillis (the man behind Girl Talk) which samples he used, and then constructed a diagram similar to Figure 1.3.

Figure 1.3: Sources of Samples in Girl Talk's "What It's All About"[26]



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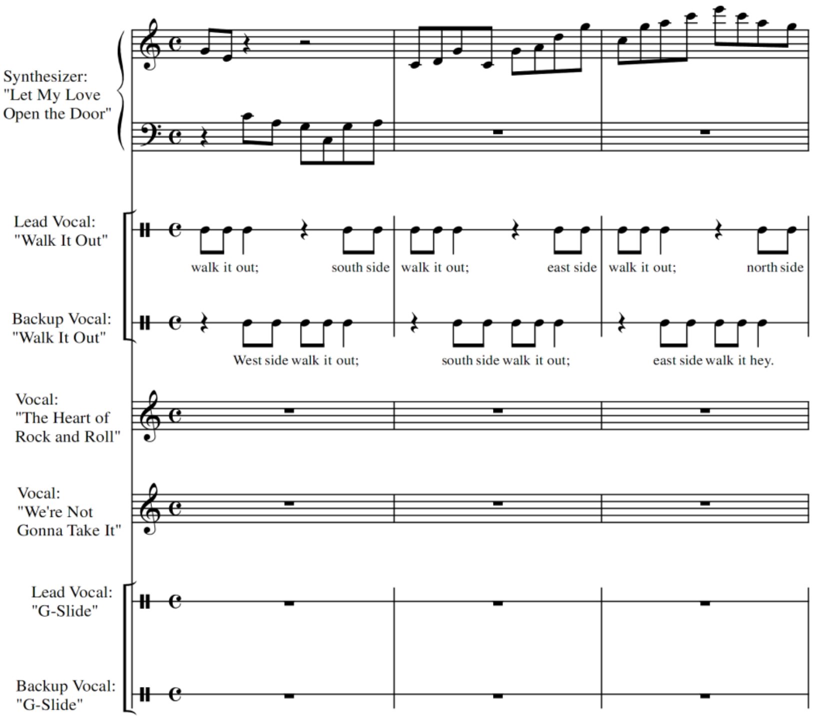
[26] After Angela Watercutter, "Mashup DJ Girl Talk Deconstructs Samples From 'Feed the Animals',"

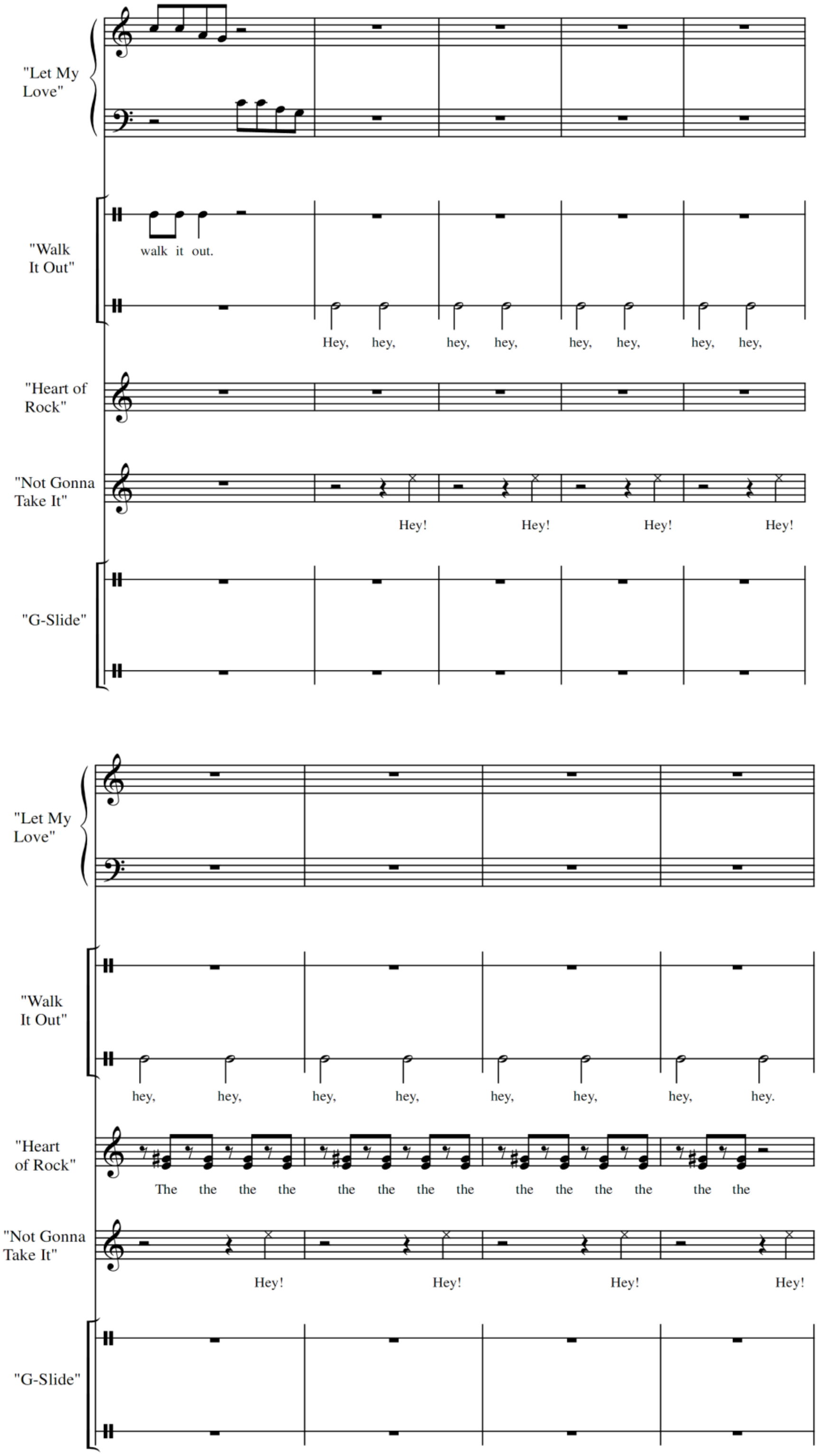
Watercutter's original diagram was in a circular format, probably in order to make the drawing look like a record. However, I prefer to represent the song horizontally, as if flowing in time. This diagram provides a glimpse into the construction of a megamix mashup, which listeners often consider a sort of game whose goal is to recognize as many of the source songs as possible. Few listeners will get them all, and certainly not on the first listening, but many listeners say they find it exciting when they recognize a sample. A DJ whom Liam McGranahan interviewed called listening to such mashups a "name-that-tune guessing game."[27] In general, most samples in this type of mashup tend to be relatively short. Often several will be longer, however, and these serve to give musical continuity to the mashup. As shown in Figure 1.3, the longest excerpt in "What It's All About" lasts for one minute and fifteen seconds (Busta Rhymes' "Whoo Hah!! Got You All in Check"), but the shortest excerpt lasts less than one second (50 Cent's "What Up Gangsta"). "What It's All About" has as many as four layers occurring simultaneously, which make the shorter excerpts very difficult to recognize. The samples in a megamix mashup usually overlap with one another vertically as well as horizontally. Although it is set up as something of a game, and the large number of samples might lead us to expect that the result will be choppy and erratic-sounding, the best of this type of mashup sound smooth and purposeful. Example 1.10 is a section of "Play Your Part (Pt. 1)" by Girl Talk, from his 2008 album *Feed the Animals*.

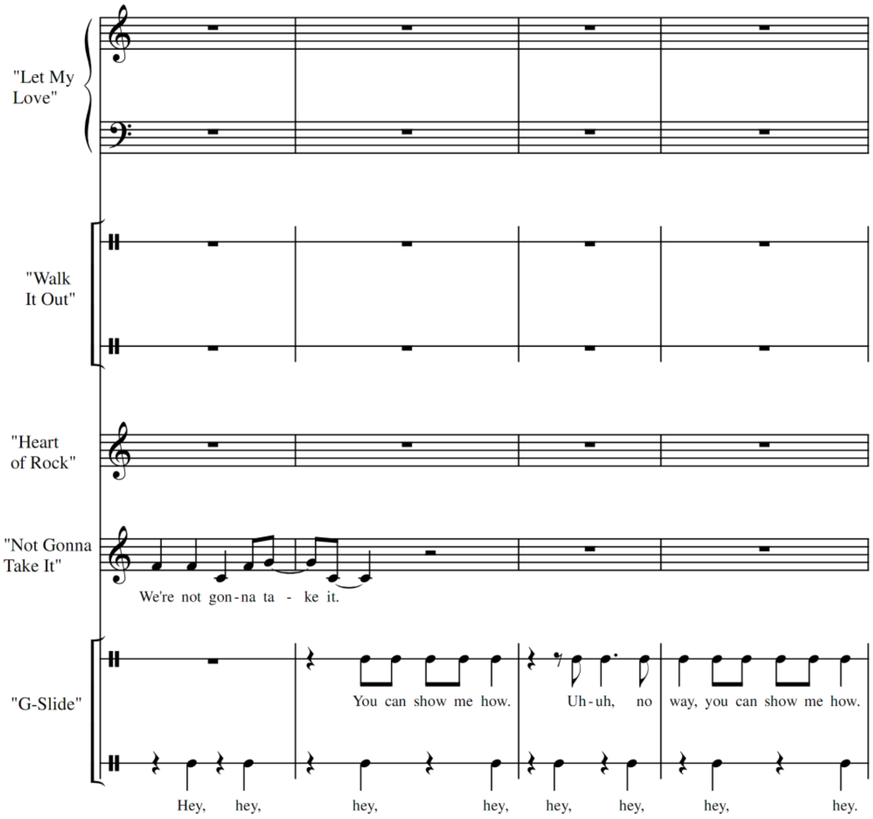
Wired Magazine, August 18, 2008, http://www.wired.com/special_multimedia/2008/pl_music_1609#ixzz0ifdrqbGf [accessed 30 April, 2011]. Thanks to Jeffrey Boone for constructing this version of the diagram.

[27] McGranahan, "Mashnography," 85.

Example 1.10: Girl Talk, "Play Your Part (Pt. 1)," (1:51-2:17), transcription by author


Synthesizer: "Let My Love Open the Door"
Lead Vocal: "Walk It Out"
walk it out; south side walk it out; east side walk it out; north side
Backup Vocal: "Walk It Out"
West side walk it out; south side walk it out; east side walk it hey.
Vocal: "The Heart of Rock and Roll"
Vocal: "We're Not Gonna Take It"
Lead Vocal: "G-Slide"
Backup Vocal: "G-Slide"


"Let My Love"
"Walk It Out"
walk it out.
Hey, hey, hey, hey, hey, hey, hey, hey,
"Heart of Rock"
"Not Gonna Take It"
Hey! Hey! Hey! Hey!
"G-Slide"
"Let My Love"
"Walk It Out"
hey, hey, hey, hey, hey, hey, hey, hey.
"Heart of Rock"
The the the the the the the the the the the the the the
"Not Gonna Take It"
Hey! Hey! Hey! Hey!
"G-Slide"


"Let My Love"
"Walk It Out"
"Heart of Rock"
"Not Gonna Take It"
We're not gon-na ta - ke it.
"G-Slide"
You can show me how.
Uh-uh, no way, you can show me how.
Hey, hey, hey, hey, hey, hey, hey, hey.

A percussion part, which comes from the various sampled songs in the mix, also runs throughout the track. Gillis does an excellent job of combining so many songs by finding similarities between them. As Example 1.10 shows, for this section of “Play Your Part,” he has chosen to use several songs where the singers shout “Hey!”[28]

A piece like this is reminiscent of certain types of collage music. It is constructed in much the same way as the third movement of Berio’s *Sinfonia*. Imagine that Berio had used recordings instead of scores. Would his piece then be considered a megamix mashup? Almost. An important aspect of mashups that the chart does not address is exactly *what type* of previously recorded music is mashed together to make them. It seems to be a fundamental property of the mashup that at least some of its source material be drawn from a recording of a recognizable popular song.[29] (In any case, I have not encountered anyone claiming a mashup of material that did not consist of at least one popular song.) Usually *all* the songs involved in a mashups are popular songs of the rock era or later, but there are certainly instances that defy this rule. (See, for example, *Gangsta Grass*, which is an album of rap songs with bluegrass accompaniment, or the Eminem + ragtime music tracks.)

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[28] The word “the” is used from Huey Lewis and the News’ “The Heart of Rock and Roll,” but such a short sample is used that the word is clipped, making it, too, sound like “Hey!”
More about drawing upon similarities between songs to construct mashups can be found in Chapter 4.

LIVE DJ PERFORMANCES

Many live DJ performances can be described as improvised mashups. Such performances share many characteristics with the mashup: only recordings are used, songs are cut up and altered to fit with each other, there is both vertical and horizontal interaction between the samples, and like a megamix mashup, the beat never stops. However, live DJ performances are just that: live. DJs make spur-of-the-moment decisions about which records to play next, based on audience reactions. The combination of sounds from two different records make up what DJs call "the third record."[30] This genre fits into the "Many songs, mostly recognizable" row, along with the megamix mashup.

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[29] This term can mean many things, of course, but in this case, "popular song" means a song that appeared on the Billboard charts from 1950 onward.

LIVE RAP BATTLES

Live rap performances and battles are very similar to live DJ sets discussed above where a DJ creates a spur-of-the-moment mix of several different records. But a live rap performance adds an MC who raps over the musical accompaniment from the DJ. In the case of a rap battle, two rappers alternate, each trying to outdo the other with better rhymes. This puts the live rap battle into another slot of the chart: "Many songs, sometimes recognizable + new material." The vertical interaction occurs between the DJ's records and the rappers, as well as between two records playing at the same time. The horizontal interaction occurs between the records being played, between the rapper and the records, and also between the two rappers alternating.

MEGAMIX MEDLEYS

Megamix medleys also belong in the category "Many songs, sometimes recognizable + new material." Some of the most famous examples of megamix medleys are "Hooked on Classics" and "Stars on 45." This type of medley features a string of several well-known songs (classical themes in "Hooked on Classics" and pop tunes in

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[30] Butler, *Unlocking the Groove*, 328.

"Stars on 45") all juxtaposed horizontally. Megamix medleys are similar to traditional medleys (which will be discussed later in this chapter), but the main difference is the number of songs being combined. However, the megamix medley has an element of new material added to it that a traditional medley lacks: a disco beat. These records were released for dancing, so a drum machine provided an incessant beat throughout the entire medley. Vertical interaction, therefore, occurs between the drum machine and each of the songs in the medley.

GLITCH POP

Glitch pop is similar to the remix, in that the composer uses only one previously recorded song, and it interacts with itself on a horizontal plane. This genre also has similarities to collage music (especially that of John Oswald) in that it has the potential to bring one element of a song to the foreground. But glitch pop focuses on something traditionally unwanted, like feedback through a speaker or the noise of a CD skipping, and makes that into the main idea of the piece. For example, the song "Pop" by *NSync (2001) uses the sound of a record scratching at the beginning. The vocals sound a bit robotic at times because of the use of Autotune, an audio processor that can be used to change the pitch of a singer's voice.[31] The recording also applies echo effects to the vocal lines, and it includes a section of the song with a vocal percussion solo.[32] The overall effect of this song is a futuristic, high-tech dance number punctuated by bits of these strange-sounding noises. However, an Irish DJ called Skkatter took the noise parts of the song to an extreme when he created "Dirty Pop." All the computerized noises are amplified in volume and stretched out over time, and the members of *NSync sound even more like robots, stuttering over their metallic-sounding words. Skkatter's version of "Pop," by focusing on these glitches, also brings another element of *NSync to the forefront: *NSync was a label-created boy band, produced and processed to the extreme. Skkatter takes this idea even farther, and creates a boy band full of computerized automatons.

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[31] Autotune was originally designed to make singers' voices more in tune if they were sharp or flat, but more recently, artists and producers have started to use it to audibly distort singers' voices. A good example of this can be heard in Cher's 1998 hit "Believe."

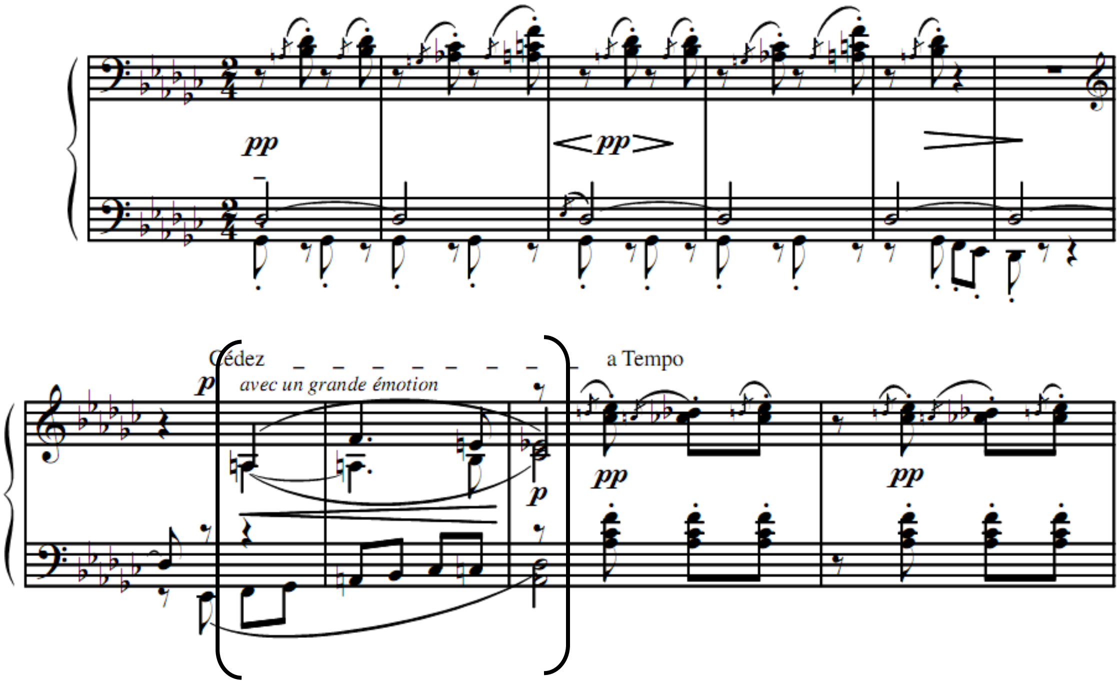
INTERPOLATED QUOTATIONS

Interpolated quotation falls into the "Primarily horizontal juxtaposition" column. An interpolated quotation occurs when part of a (usually) well-known song is found in the middle of another piece of music. Sometimes only one song is used, as in the case of Debussy's inexact quotation of the opening of the *Tristan und Isolde* prelude in "Golliwogg's Cakewalk" (Example 1.11).

---

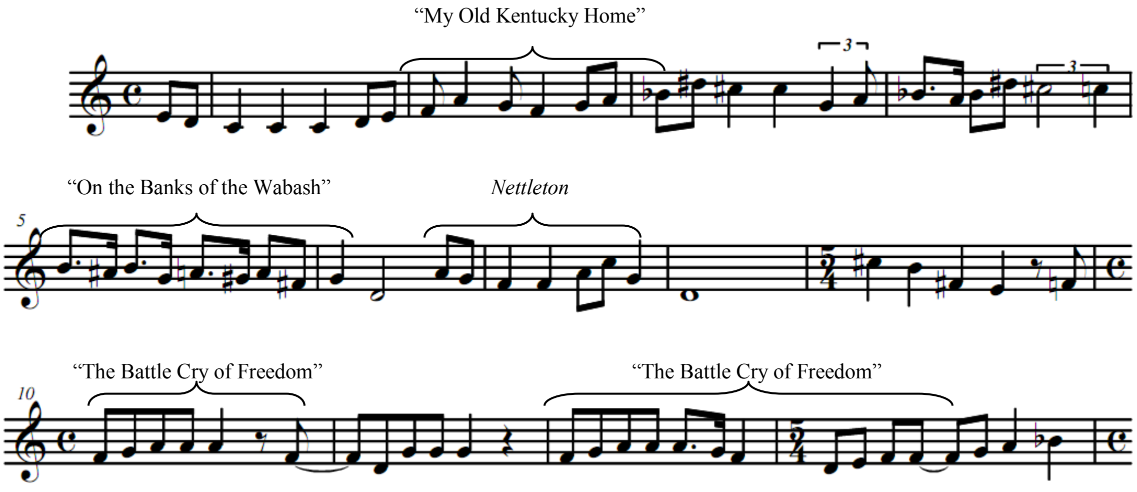
[32] Vocal percussion, also known as "beatboxing," is the art of creating drum and percussion-like sounds with one's mouth. It is often heard in a cappella and hip hop music.

Example 1.11: Claude Debussy, "Golliwogg's Cakewalk," mm. 55-64



The bracketed portion of music contains the interpolated quotation, and the rest is the new material, Debussy's piece. Sometimes more than one piece of music is quoted, in which case it would fall in the "Many songs, sometimes recognizable + new material" row as well. Charles Ives's song "The Things Our Fathers Loved" illustrates interpolating quotations from many songs. Example 1.12 shows the melodic line, with the quotations indicated.

Example 1.12: Charles Ives, "The Things Our Fathers Loved," mm. 1-13


"My Old Kentucky Home"
3
3
5
"On the Banks of the Wabash"
Nettleton
10
"The Battle Cry of Freedom"
"The Battle Cry of Freedom"

Burkholder calls Ives's technique here "patchwork," since he stitches together pieces of songs using his own connective material.[33]

MEDLEYS

The slot on the chart where horizontal juxtaposition meets "2 or 3 songs, all recognizable" contains only one genre: the medley. A medley consists of two or more songs that lead one into another without a break (or with the most rudimentary transition). An example can be found on the Beatles' 1964 album, *Beatles For Sale*. The Beatles begin with "Kansas City" (Lieber and Stoller), sing two choruses of it, and go immediately into "Hey-Hey-Hey-Hey!" (Penniman). The two songs are in the same key, the same meter, and are accompanied in a similar way, so the transition does not seem jarring. The transition is shown in Example 1.13.

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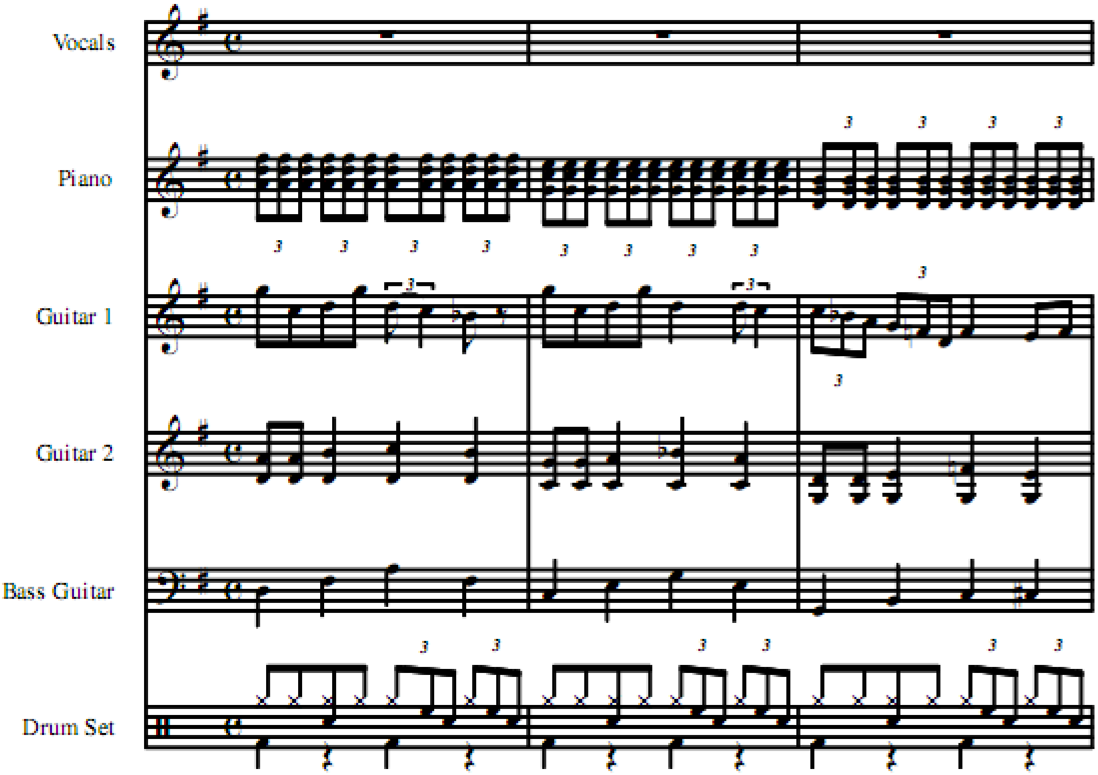
[33] Burkholder, *All Made of Tunes*, 4.

Example 1.13: The Beatles, "Kansas City/Hey-Hey-Hey-Hey," (1:06-1:18)[34]



Vocals
Piano
Guitar 1
Guitar 2
Bass Guitar
Drum Set

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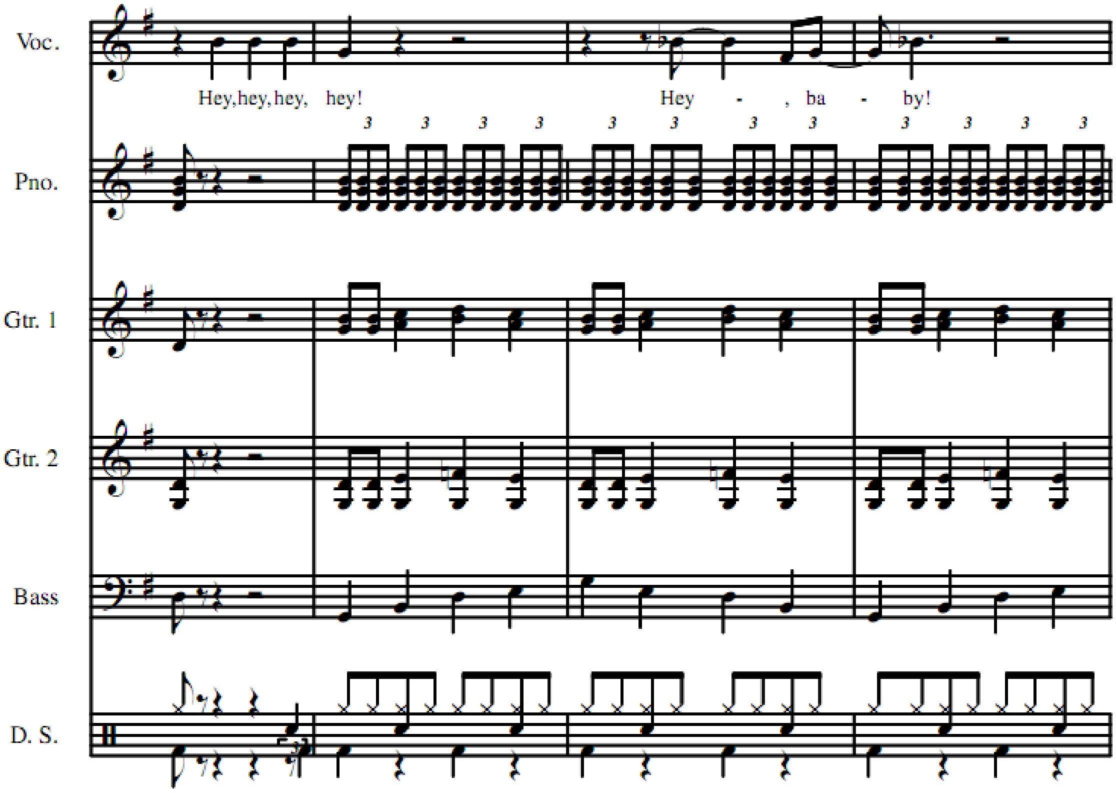
[34] *The Beatles Complete Scores*, 594-595.



The fourth measure serves as a transition, with the vocal part bridging the gap between the two songs by simply introducing the new lyrics. As noted above, the similarity of the accompanying instrumental parts across the transition makes the switch smoother.

In a medley, a significant, recognizable portion of each song is used. The key of any song may be changed in order to ensure a good fit with the other song(s); sometimes a short modulating transition is used in the interest of contrast, especially if there is also a change in tempo between the songs. This is particularly common in the medley overtures of musical theater. The main difference between a medley and a cover mashup is that medleys rarely use vertical superimposition. The interaction between songs is strictly on a horizontal plane. The medley is also a procedure with an extensive history. Ives, for instance, used medley along with several other techniques to construct his Fourth Symphony.[35] Despite its position on the chart, a medley often involves more than three songs. However in those cases it can still easily be differentiated from the megamix mashup by the absence of a dance beat in the background and the use of large portions of each of the songs it quotes.

MASHING AND MASHUPS

It is important to note that the techniques used in making mashups are not unique to that particular genre. A mashup, however, must possess several specific characteristics.

1. Mashups consist strictly of previously-recorded (or sound-alike) material; like DJing, it is fundamentally an art of mixing. Anything that uses new material must be termed something else, perhaps a remix or a collage work.
2. There must be some vertical interaction between songs. There can certainly be horizontal interaction, and the horizontal interaction may even be dominant, but if there is no vertical interaction at all, the resulting piece is not a mashup.
3. Two or more songs are used. The rearrangement of sound from only one song, though it may be constructed using similar processes to the construction of a mashup, is either a remix, a collage, or a piece of glitch pop.

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[35] Burkholder, *All Made of Tunes*, 409.

4. The samples used to construct a mashup must be of sufficient length that we can recognize a significant amount of the source material.[36]
5. At least one of the songs used to make a mashup must be a popular song, usually with lyrics.[37]

However, just because a piece of music is not a mashup by name, the technique of "mashing" can certainly have been used to construct that piece, and it may well be said to exemplify the "mashup spirit" or even sound like a mashup, even though it cannot technically be called such according to the above criteria. By referring back to the chart, it becomes clear which genres of music are the most similar to the mashup. Live DJ performance and a certain type of collage music, for instance, both share slots with mashups on the chart. Of course, none of these categories are carved in stone. It may in fact be possible to find instances where it is not entirely clear whether a particular piece of music should be called a mashup or collage. But these instances of blurred genre can serve as starting points for interesting discussions.

This chapter effectively located the mashup as a separate genre of music. Indeed, the mashup is sufficiently different and consistent in its construction to be considered a separate class of music, rather than simply a subcategory of remixes or collage music. Based on the two axes of Figure 1.1 – the number of sources and the way that those sources interact with each other – I have carved out a space for the mashup and shown how it differs from and is similar to other types of music. I have also constructed a basic typology of four different kinds of mashup, none of which have been previously specified in a formal manner:

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[36] This rule is somewhat negotiable with regards to the paint palette mashup, which is not representative of the genre as a whole.

[37] McLeod, "Confessions of an Intellectual (Property)," 86.

1. The basic mashup (the most common type, and certainly the one that most journalists choose to focus on);
2. The cover mashup;
3. The paint palette mashup (the most infrequent type, and the least similar to the basic mashup);
4. The megamix mashup.

This typology forms the basis for my further investigation into the history, legality, and aesthetics of mashups.

Chapter 2: Mashups and the Law

A BRIEF HISTORY OF UNITED STATES COPYRIGHT LAW

Copyright was first included as a part of the United States Constitution in order to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."[1] However, the length of time that copyright protects a particular work has been extended over and over again, to the point that many people argue that the law no longer promotes progress, as it was originally intended to do.

The Copyright Act of 1790 offered authors the exclusive rights to print and publish their work for 14 years, with the option to renew the copyright for another 14 years if the creator was still living. After this period was over, the copyrighted work then entered the public domain, and anyone could use, print, or publish it as he or she pleased. This first law applied only to "Maps, Charts, and Books," not to newspaper articles or musical compositions.[2] In 1831 the period of initial coverage was extended to 28 years, with an option to renew the copyright for 14 years. This 1831 revision also expanded the act to include all types of works – including musical compositions, in the form of sheet music.[3] The renewal period was increased again, to 28 years, in 1909. The 1909 copyright act also provided the composer of a copyrighted musical work with the exclusive right

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[1] U.S. Constitution, Article 1, § 8.

[2] United States Copyright Act of 1790, Introduction.

[3] Demers, *Steal This Music*, 18-19.

> To perform the copyrighted work publicly for profit … and … to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced…. *And provided further, and as a condition of extending the copyright control to such mechanical reproductions* That [sic] whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work, any other person may make similar use of the copyrighted work upon the payment to the copyright proprietor…The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is changed for admission to the place where such reproduction or rendition is occurs.[4]

The 1909 revision is especially significant to the topic at hand, since it is the first time that mechanical rights were needed in order to play a recording of a copyrighted musical composition in public for profit. It also made it illegal to make unlicensed recordings of a copyrighted piece. The above quotation contains the basis for copyright law today, which makes most mashups illegal to distribute.

The next major revision to the law was the Copyright Act of 1976.[5] This thorough revision was made to accommodate the major technological changes in media of mechanical reproduction and broadcast that had occurred since 1909. The first major change that the 1976 act specified was that copyright protection was now offered for any work "*fixed in any tangible medium of expression*, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device."[6] This wording is particularly important, because prior to the 1976 act, a work needed to be published and to include a declaration of copyright on it in order to be protected by federal ("statutory") copyright law. Prior to 1976, state copyright law, or "common-law copyright" protected unpublished works and recordings, but if a work was published and did not have a copyright notice on it, that work was considered to be in the public domain, and was not protected at all.[7]

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[4] United States Copyright Act of 1909, Section 1 e (emphasis in original).

[5] The United States ratified the Universal Copyright Convention in 1954 and 1971, but was allowed to retain its copyright terms already in existence.

> The 1976 Act also laid out five exclusive rights of a copyright owner:
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> (1) to reproduce the copyrighted work in copies or phonorecords;
> (2) to prepare derivative works based upon the copyrighted work;
> (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
> (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and
> (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.[8]

Items 2 and 3 are particularly important with regards to mashups. These two rights make it illegal to distribute not only the unaltered copyrighted work itself, but also works derived from the copyrighted work (e.g. remixes and mashups).

The concept of "fair use" was also introduced into U. S. copyright law for the first time in 1976. Fair use means that a copyrighted work may be used for the purposes of teaching, scholarship, or criticism without legally infringing upon the copyright. The copyright act lists four factors that should be used to determine whether or not fair use can be said to exist:

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[6] United States Copyright Act of 1976, Section 102 (my emphasis).

[7] Margreth Barrett, *Intellectual Property* (New York: Aspen Publishers, 2008), 106.

[8] United States Copyright Act of 1976, Section 106.

> (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
> (2) the nature of the copyrighted work;
> (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
> (4) the effect of the use upon the potential market for or value of the copyrighted work.[9]

As we will see later in this chapter, fair use has been an important defense in court cases involving sampling and the legal status of mashups.

The 1976 act also greatly increased the length of the copyright term, in order to bring the United States into conformance with international standards.[10] Previously, copyright protection lasted for 28 years, with the option to renew for another 28, bringing the total number of years to 56. This revision increased the length of time to the life of the author plus another 50 years. The term was set at 75 years after publication or 100 years after creation (whichever date comes first) for anonymous works and works "made for hire," either by a company or an individual.[11] As an example, the song "Old Time Rock and Roll" was released by Bob Seger in 1978 (the year that the 1976 copyright law went into effect) when he was 33 years old. If Seger lives to be 80 years old, the copyright of “Old Time Rock and Roll” will last until the year 2075 – almost 100 years after it was written.

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[9] Ibid., Section 107.

[10] The United States adopted the Universal Copyright Convention (UCC) in 1956. At the time, however, the U.S. was unwilling to adopt the convention's standards of a single term of copyright protection based on the author's life.

[11] United States Copyright Act of 1976, Section 302.

However, copyright terms were made even *longer* with the Copyright Term Extension Act of 1998. This act, also called the Sonny Bono Copyright Term Extension Act due to the singer-turned-legislator who championed it, extended copyright protection lengths by 20 years.[12] This makes “Old Time Rock and Roll” copyrighted until 2095 – assuming Bob Seger lives to be 80 years old. The copyright term on made for hire works was also extended by 20 years – from 75 to 95 years after publication, or from 100 to 120 years after creation (again, whichever date comes first).[13] While this act did not re-place any work already in the public domain back under copyright, it did extend the terms of works written after 1923 (whose copyrights were about to expire after 75 years). Another great supporter of this 1998 act was the Walt Disney Company. Some of Disney’s earliest cartoons were from the 1920s, and the end of their copyright protection term was quickly approaching (“Steamboat Willie,” for instance, would have entered the public domain in 2003).[14] Their strong lobbying for the act caused some to derogatively call it the Mickey Mouse Protection Act. Other enthusiasts of copyright term extension were the estates of George and Ira Gershwin[15] and Irving Berlin,[16] some of whose songs were about to lose their copyright protection.[17]

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[12] United States Copyright Term Extension Act of 1998, Section 102.

[13] Ibid.

[14] Elizabeth A. Buchanan, “Deafening Silence: Music and the Emerging Climate of Access and Use,” in *Cybersounds: Essays on Virtual Music Culture* (New York: Peter Lang Publishing, 2006), 12.

[15] Tyler T. Ochoa, “Patent and Copyright Term Extension and the Constitution: A Historical Perspective,” *Journal of the Copyright Society of the U.S.A.* 49 (2001): 23.

The Digital Millennium Copyright Act was also passed in 1998. This act is different from all of the ones previously discussed in that it does not affect the length of copyright terms or the types of works copyrightable. The Digital Millennium Copyright Act makes it illegal to circumvent technology designed to prohibit unauthorized access to a copyrighted work. It also makes it illegal to make or sell devices used for circumventing that technology. For example, when you rent or buy a DVD, it most likely comes with digital rights management (DRM) protection. This protection is supposed to make it impossible for someone to copy the contents of the disc.[18] However, it has become relatively easy to circumvent most protection schemes, and soon after DRM was introduced, software and hardware was developed to circumvent it. The Digital Millennium Copyright Act was a response to this problem, as it made the manufacture, sale, and use of these devices and software illegal.[19] Nevertheless, so-called "ripping" software is readily available, and in practice possession of such software for personal use is not prosecuted, though it is not condoned.

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[16] Yemi Adeyanju, "The Sonny Bono Copyright Term Extension Act: A Violation of Progress and Promotion of the Arts," *Syracuse Science and Technology Law Review* (2003): 14.

[17] Many of Berlin's songs, such as "Alexander's Ragtime Band" (1911) and "God Bless America" (1918) had already become part of the public domain because they were published prior to 1923.

[18] Tarleton Gillespie, *Wired Shut: Copyright and the Shape of Digital Culture* (Cambridge, MA: The MIT Press, 2007), 14.

[19] Digital Millennium Copyright Act, §1201.

SAMPLING AND LAWSUITS

"The majority of changes to the copyright regime," says Joanna Demers, "have expanded either the lifespan or the scope of protection; these amendments fail to acknowledge new modes of cultural production, from postmodern novels to hip hop, that challenge our definitions of borrowing and infringement."[20] This certainly is true, but these "new modes of cultural production," while they sometimes make use of new technologies, are not new in terms of the ways they present borrowed and reused material. As we will see in Chapter 3, music has always depended on imitation and appropriation. So in essence, new technology has made it easier to borrow from another composer (so easy, in fact, that teenagers can make mashups in their bedrooms) and the law, conversely, has made it harder and harder to let other people hear the resulting work legally.

In terms of obtaining legal rights, recording a cover version of a song is easy. All you need to do is pay a fee to get a mechanical reproduction license (originally designed for player piano rolls), which ensures that royalties go to the copyright holders (the songwriter and publisher). As long as the song has been recorded previously, you do not need to obtain permission from the copyright holder in order to re-record it.[21] This license allows for all types of cover recordings – from sound-alike versions to completely different arrangements. The fee for the license is based on the length of your cover version and the number of copies you are producing. As of October 1, 2010, the rate is

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[20] Demers, *Steal This Music*, 23.

[21] Ibid., 37.

$0.033 per minute (or fraction of a minute) per copy.[22] (So if you make 500 copies of a recording that is 3:00 long, it would cost $49.50.) The fee is the same whether you are making physical copies of the recording or PDDs (permanent digital downloads). This law seems to make financial sense for everyone involved, since the cost is based on the number of copies made (although digital copies can be made for essentially for free, and CDs cost money to produce).[23] If you are a local artist covering a song and are only planning to sell a few hundred copies, you do not stand to make a lot of money from your album, and consequently you do not have to pay a lot to release it. If, on the other hand, you are an internationally-recognized music superstar, and you produce millions of copies of your album with the cover song in question, you have to pay more in order to do so.

In the case of recording a cover song, the use of the song (melody, harmony, and lyrics) is being licensed. In the case of sampling, however, a license to use the actual *recording* of the song is needed.[24] Because of this difference in license, the process for using a legal sample is both more complicated and usually more expensive, even though the length of a sample is generally much shorter than an entire song. First, you must get permission from the copyright holder in order to use a portion of the recording. The copyright holder of the recording is usually not the songwriter, performer, sound engineers, or producers, but the record label.[25] So even if you wanted to sample *your own* song, but now work for a different record label, you could theoretically be denied permission to do so, and you would undoubtedly have to pay for the right, if permission was granted.[26] Obtaining clearance to use a sample is such a complicated, time-consuming process that there are companies known as sample-clearing houses who specialize in securing permission for samples from record companies and negotiating the fees that go along with the clearance.[27] Even if you can afford to pay the license for the sample, there is no automatic right, as is the case with cover songs, to use the sample, and copyright holders of some recordings – those of the Beatles, for example – are notorious for never granting permission to use their recordings, and in other cases it can take many months, even up to a year, to get clearance.[28] A second issue is money. After you receive permission to use a sample (which can be difficult for amateur artists), the sample clearing-house negotiates with the record company. Kembrew McLeod spoke with the director of a sample clearing-house who estimated that the samples on a hip hop album cost an average of $30,000, but that sometimes a single sample can run as high as $100,000.[29] It is no wonder mashup artists work mostly around the law – these bedroom musicians could not afford to sample legally, even if they somehow got permission.

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[22] The Harry Fox Agency, http://www.harryfox.com/index.jsp [accessed. 30 April, 2011].

[23] However, computers have doubtless complicated the issue. There is still some amount of disagreement between parties about what actually constitutes a digital copy. Should one have to pay for streaming audio, for example, as this process creates a temporary copy of the file?

[24] The process is the same for pre-recorded, or master-tone, ringtones. However, the royalties that the record company gets for each ringtone sold are significantly higher than for physical copies and downloads, which explains why a song costs less to download than a ringtone. (http://www.harryfox.com/public/userfiles/file/Licensee/HFARoyaltyRatePR10-2-08.pdf [accessed 30 April, 2011])

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[25] McLeod, *Freedom of Expression (R)*, 98.

[26] This has also historically been the case with derivative rights of any type, even before sampling came into the picture.

[27] McLeod, *Freedom of Expression (R)*, 87.

[28] Charisse Jones, "Haven't I Heard That 'Whoop' (Or 'Hoop') Somewhere Before?," *New York Times*, December 22, 1996.

[29] McLeod, *Freedom of Expression (R)*, 87-88.

Because sampling has not been directly addressed in any version of the Copyright Act, a number of famous lawsuits have been argued over the issue. The first case was brought in 1956. Dickie Goodman and Bill Buchanan released a comedy record called "The Flying Saucer," which was a skit about an alien invasion, told through the Top-40 hits of the day. The song featured an announcer (voiced by Goodman) interviewing bystanders about a flying saucer, and the responses to his questions were samples of popular songs by Elvis, Fats Domino, Little Richard, and many others. The record sold over a million copies, and four different record labels filed an injunction to keep any more of the records from being sold. They also asked for $130,000 in damages. However, the judge decided that Buchanan and Goodman had not violated copyright law with the creation of "The Flying Saucer," because they had, in effect, "'created a new work.'"[30] The record continued to be sold, and no damages were paid to the labels.

The next sampling lawsuits to be filed were in the 1980s, right after the introduction of the digital sampler. The Beastie Boys were sued in 1986, De La Soul in 1989, and Vanilla Ice in 1990. All three lawsuits were settled out of court.[31] Also in 1990, the experimental music group Negativland decided to make a statement about sampling when they released a 13-minute long single entitled "U2." The song includes samples from U2's hit "I Still Haven't Found What I'm Looking For" and bloopers of Casey Kasem on his top 40 radio program, in addition to original material. The cover of the album featured a U-2 spy plane, and words "U2" and "Negativland." In their book documenting the experience of the lawsuit that followed the release of this record, the group said, “The graphic artist who helped us design the cover suggested that we make the letter U and the numeral 2 extremely large. We liked this because it made it look, at first glance, like a U2 record.”[32] U2’s label, Island Records, sued Negativland’s label, and the terms that they demanded were: (1) Everyone who had a copy of the record (both individuals and radio stations) was ordered to return it. Anyone who had a copy and did not return it could be fined. (2) All copies were to be destroyed, in addition to all the master tapes used to make the record. (3) Negativland would no longer own the copyright to the record.[33] Although overmatched in terms of economic resources, Negativland decided to fight the case. In their first press release concerning the lawsuit, they stated that “We estimate the total cost to us, including legal fees and the cost of the destroyed records, cassettes, and CDs, at $70,000 – more money than we’ve made in our twelve years of existence.”[34] Throughout the course of their later book on the lawsuit, the group defends their actions as artistically creative, and therefore defensible. They refer to Island Records as a “bully,”[35] and call the actions of the company a form of censorship. They compare themselves to visual artists like Kurt Schwitters and Robert Rauschenberg who work with found objects. Negativland continued to distribute the record to the public – for free – after Island Records filed the lawsuit. Their goal was to draw as much attention to the lawsuit as possible.[36] After three years of negotiations, all of which are detailed in

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[30] McLeod, "Confessions of an Intellectual (Property)," 82.

[31] Demers, *Steal This Music*, 93.

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[32] Negativland, *Fair Use: The Story of the Letter U and the Numeral 2* (Concord, CA: Seeland, 1995), vi.

[33] Ibid., 21.

[34] Ibid.

[35] Ibid., 22.

[36] Ibid.

Negativland's book, they and Island Records reached an out-of-court settlement. Negativland ended up paying the record company around $31,000. Additional out-of-pocket costs brought their total net loss to $40,000.[37]

The very next year, 1991, the first sampling lawsuit made it to the courtroom. Hip hop artists had been using samples without legal clearance for over ten years prior to this first groundbreaking lawsuit. However, as long as the practice avoided using the most famous artists, sampling was able to exist somewhat under the radar for many years, due to hip hop's rather subsidiary status within the music industry. However, once rap and hip hop began to occupy a more substantial portion of the market, record companies and their lawyers suddenly became more concerned with possible copyright infringement.[38] The case of Warner Records v. Grand Upright Records set a legal standard that served as a precedent for hip hop copyright infringement cases for years to come.[39] Biz Markie's album *I Need a Haircut* included a track called "Alone Again" which used about 20 seconds of piano accompaniment from Gilbert O'Sullivan's 1972 hit "Alone Again (Naturally)." Before the release of the record, Markie's label, Grand Upright Records attempted to contact Warner (O'Sullivan's label) for permission to use the sample, since the piano intro was looped as used as the background for Markie's entire song. Warner did not respond, so Markie released the record anyway.[40] Despite the precedent of Goodman and Buchanan's "Flying Saucer" case, during the lawsuit that followed, the judge damned Markie for breaking not only copyright law, but also the seventh commandment (Thou shall not steal). Markie and his label had to stop selling the record and pay damages (of an undisclosed amount) to Warner.[41]

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[37] Ibid., 166-67.

[38] Charles Aaron, "Gettin' Paid: Is Sampling Higher Education or Grand Theft Auto?," *Village Voice Rock "n" Roll Quarterly*, Fall 1989, 22.

[39] McLeod, *Freedom of Expression (R)*, 83.

[40] Demers, *Steal This Music*, 93.

One need only look at a group like Public Enemy to see the pivotal effect this lawsuit had on hip hop music. Their 1991 album *Apocalypse 91* was completely different from their previous albums that had been constructed as sound collages out of samples. As Public Enemy's Chuck D remarked, Warner Records v. Grand Upright Music "changed how we had to approach music to the point where we couldn't use fragments in a song. That's what changed overnight."[42] Harry Allen (also of Public Enemy) called the earlier albums "artifacts from another time that couldn't exist today." He continued, "They're just financially untenable, unworkable records. We would have to sell them for, I don't know, a hundred and fifty-nine dollars each just to pay all the royalties.…"[43] Because of the high cost and risk of lawsuits, sampling in the 1990s assumed different forms. Artists who were rich enough to afford to sample legally (e.g., Puff Daddy) continued to do so in obvious ways, while other more obscure artists relied on their underground status in order to sample illegally without getting caught.[44] These sampling lawsuits made it much more difficult and expensive for independent and small-scale hip hop artists to gain any sort of mainstream success with sample-based hip hop. Starting in the '90s, the only way to make a commercially viable rap album with recognizable samples was to do so with the backing of a major record label. Many hip hop artists, however, continued to use very short, unlicensed samples, assuming they would be protected under the "fair use" caveat of copyright law. The label-supported, commercially successful hip hop artists, therefore, lost a lot of their competition and gained a more secure place for themselves in the market.

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[41] Vaidhyanathan, *Copyrights and Copywrongs*, 142-143.
[42] Quoted in McLeod, *Freedom of Expression (R)*, 68.
[43] Quoted in Ibid., 88-89.
[44] Demers, *Steal This Music*, 97.

As will be discussed in Chapter 3, sampling in hip hop was a direct precursor to and had a strong influence on mashups. So it was to be expected that record companies would threaten to sue mashup artists when they began releasing their tracks a decade later. Although it did not result in a court case, the distribution of DJ Danger Mouse's *Grey Album* seems to have caught the record companies by surprise. In 2004, Danger Mouse released his *Grey Album*, which combines the music of the Beatles and Jay-Z by forging a new musical accompaniment for Jay-Z's a cappella rap completely out of samples from the Beatles.[45] Danger Mouse constructed this mashup album in a truly amateur fashion: he did it in his bedroom.[46] This is an important part of the story; since mashup artists are often called "bedroom composers." This bedroom setting contributes to the mythology of the mashup and its radically democratic and anti-commercial ethos. But despite the amateur production setting, Danger Mouse was already a professional DJ who spent over 100 hours putting together the album. (The *Grey Album* doesn't sound amateur-made, either.) He then had 3000 copies made, but also made the album available for download on his website. It then began to spread extremely quickly via file-sharing networks.[47] EMI/Capitol Records, the notoriously litigious copyright holder of the Beatles' recordings, sent a cease-and-desist letter[48] to Danger Mouse when it learned about the album. Danger Mouse did, indeed, pull the tracks from his website. But the letter had little power amongst a file-sharing community of millions. One website in particular, Downhill Battle,[49] decided to take action against the cease-and-desist. Downhill Battle announced that Tuesday, February 24, 2004 would be known as "Grey Tuesday" and called for as many websites as possible to host the *Grey Album* for free download on that day.[50] Downhill Battle calls Grey Tuesday a great success. Over 170 websites hosted the download, and over 100,000 were downloaded that day.[51] Strangely, EMI/Capitol Records did nothing. They did not sue Brian Burton, Downhill Battle, or any of the other websites that hosted the *Grey Album* for download, a decision that remains somewhat of a mystery to the general public.[52]

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[45] One of the tracks from this album, "Dirt Off Your Shoulder," is discussed in more detail in Chapter 1.

[46] Moss, "'Grey Album' Producer Danger Mouse Explains How He Did It."

In September of that same year (2004), the U.S. Sixth Circuit Court of Appeals issued a groundbreaking decision on sampling. Up until this time, some artists were relying on the stipulation of "fair use" to defend their work from potential lawsuits. As mentioned earlier in this chapter, one of the factors used to determine whether or not a particular use of copyrighted work can fall under fair use is "the amount and substantiality of the portion used in relation to the copyrighted work as a whole."[53] This factor is, no doubt, what NWA was relying on when they sampled 1.5 seconds of Parliament Funkadelic in their song "100 Miles and Runnin'." The song came to the attention of Parliament's copyright holders, Westbound Records, when it was included in the 1998 film *I Got the Hook Up*. They sued No Limit Films in 2002, where it was initially ruled that the sample was *de minimis*,[54] and therefore unactionable.[55] This ruling was appealed and overturned two years later.[56] The appeals court ruled that all samples must be cleared, "including snippets of sounds or chords made unidentifiable by heavy distortion."[57] This was an extremely significant ruling, because it in essence determined that what some hip hop artists have been doing, assuming they were protected by either fair use or *de minimis*, could in fact be considered illegal after all. This ruling has implied, basically, that there is no such thing as fair use when it comes to sampling.

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[47] McLeod, "Confessions of an Intellectual (Property)," 79-80.

[48] The cease-and-desist letter is a first step before a lawsuit can take place. If the alleged infringer eliminates their recording, that is the end of the conflict, and no lawsuit need take place. If the cease-and-desist is ignored, then a lawsuit may proceed.

[49] www.downhillbattle.org [As of 30 April, 2011, this website has been taken down.]

[50] Sam Howard-Spink, "Grey Tuesday, Online Cultural Activism and the Mash-Up of Music and Politics," *First Monday* 9, no. 10 (October 2004).

[51] Ibid.

[52] Michael D. Ayers, "The Cyberactivism of a Dangermouse," in *Cybersounds: Essays on Virtual Music Culture* (New York: Peter Lang Publishing, 2006), 134.
Burton, as a result of this event, became enormously famous, which allowed his other projects to receive a lot more attention than they perhaps otherwise would have.

It is possible that EMI did not take any further action against Danger Mouse for the same reason that Girl Talk has never been sued: both artists have significant financial resources, and would be able to defend themselves in court. Since Danger Mouse changes his source material so significantly, he might be able to successfully use the provision of fair use to win the suit.

Due to the high cost of licensing samples and the numerous lawsuits brought about by unlicensed samples, amateur mashup artists are forced to distribute their art in underground fashion. They create tracks in their homes and release them on the internet for free, using pseudonyms to avoid legal action from record companies. In fact, much of the culture of mashups relies on the illegal status of this art form. DJ Adrian, interviewed by Liam McGranahan, calls the situation “a catch-22, because part of the appeal is, if mashups weren’t illegal, would they still be as much fun?”[58]

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[53] United States Copyright Act of 1976, Section 107.

[54] *De minimis*, Latin for "minimal things," is used in the legal community to describe uses of copyrighted material that are so minimal they are insignificant.

[55] This case was called Bridgeport Music, Inc. v. Dimension Films, the names of the parent companies of the plaintiff and defendant, respectively.

[56] John Gerome, "Court Says Any Sampling May Violate Copyright Law," *USA Today*, September 8, 2004, sec. Tech, http://www.usatoday.com/tech/news/techpolicy/2004-09-08-sampling-ruling_x.htm [accessed 30 April, 2011].

[57] Howard-Spink, "Grey Tuesday, Online Cultural Activism and the Mash-Up of Music and Politics."

THE EFFECTS OF COPYRIGHT LAW ON MUSICAL CREATIVITY

As mentioned previously, the practice of sampling in hip hop changed virtually overnight after the 1991 lawsuit by Warner Records v. Biz Markie. When, after that groundbreaking lawsuit, another hip hop artist or group used a sample without first obtaining a license, they could expect immediate legal action on the part of the copyright holder. Needless to say, unlicensed sampling decreased markedly in mainstream hip hop post-1991. But in 2001, DJ Freelance Hellraiser, a British DJ and remixer, did not think twice before he put together what is often taken to be the very first mashup, “A Stroke of Genie-us.” One difference between someone like Freelance Hellraiser (real name Roy Kerr) and say, Public Enemy or NWA is their levels of cultural recognition. When NWA used an unlicensed sample, Westbound Records noticed it, even though the sample in question was less than two seconds long (although it did take them several years to notice it – the sample was used in 1990, but was brought to their attention only when it was included in a 1998 movie). They also knew exactly who the perpetrators were, and where to send the paperwork for their lawsuit. But could either the Strokes' or Christina Aguilera's record company have sued DJ Freelance Hellraiser in 2001?

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[58] McGranahan, “Mashnography,” 184.

When mashups first began to appear around 2000, they were not made by famous artists. Since the genre was so new, its audience was still relatively small, and it was unlikely that a representative for a record company would have heard "A Stroke of Genie-us." As the genre gained in popularity over the decade, record companies began to take notice, and they regularly sent cease-and-desist letters to offending websites when they found infringing material. But they often ran into difficulty in tracking down the source of mashups, which were generally available on multiple websites. The pseudonyms used by mashup creators exacerbated the problem of identifying the source and delivering the necessary legal papers. From the standpoint of legal action, it is almost certainly "safer" for an amateur to make a mashup using large swaths of recordings than for a well-known hip hop producer to try and sneak in even a short unlicensed sample. A lawsuit against a famous hip hop producer would certainly result in more money awarded to the plaintiff if the suit was won. The anonymity of the internet makes it possible for mashup artists to hide from the law; and pursuing an individual mashup artist unassociated with a record label would likely cost far more than the company could ever hope to recover, and be counterproductive in generating negative publicity.

As DJ Adrian's comment above suggests, at least part of the draw of mashups is their extralegal status. Because mashups flout the law, they will necessarily be an art that will appeal to those who do not invest in strict adherence to the law. The renegade, outsider culture that encompasses the mashup community effectively creates what Sarah Thornton calls a subculture. She might as well be discussing the mashup community when she asserts that "[c]lub undergrounds see themselves as renegade cultures opposed to, and continually in flight from, the colonizing co-opting media."[59] Party Ben, a mashup DJ, asserts that their subcultural status actually serves to bring members of the community closer together: "Part of what makes it a community is, when you are screwing around with other people's music and technically breaking the law, there is a certain aspect of a punk spirit … of 'we are all breaking the law, but we are all doing it together.'"[60] The "colonizing co-opting media" in question is, of course, the big record labels trying to channel consumption along pre-authorized paths and to prevent mashup artists from distributing their tracks. This sense of having someone to fight against, the idea that by making mashups you can actively protest the powers that be (whether the claim is tenable or not) works to bring people from all over the world together with a sense of community. This community, like all communities, has disagreements among its members, which can cause tension, but it does function as a community, however geographically dispersed.[61] The members of this community interact on websites like Get Your Bootleg On (www.gybo.com) and Mashuptown (www.mashuptown.com). The record label Illegal Art (founded and run by a pseudonymous person called Philo T. Farnsworth, to avoid lawsuits) also acts as a mashup distribution site for artists it represents.

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[59] Sarah Thornton, *Club Cultures: Music, Media, and Subcultural Capital* (Hanover, NH: Wesleyan University Press, 1996), 6.

[60] Interviewed by McGranahan, "Mashnography," 193.

[61] The mashup community is discussed at length in McGranahan, "Mashnography."

Just like the communities of club culture that Thornton exams in her book, this subcultural community constructed around mashups has values that distinguish it from mainstream society. An aspect of this outsider value system can be seen in the reaction on mashup message boards when an artist receives a cease-and-desist letter from a record company's lawyers. Mashup artists present cease-and-desist letters almost like award medals. Whenever someone mentions having received such a letter, congratulations are offered.[62] Others express admiration for the artist and sometimes even jealousy over not having received a letter themselves. This kind of outlaw notoriety is entirely appropriate: after all, copyright infringement is often referred to as "piracy." But Liam McGranahan argues that "[t]he importance of the cease-and-desist order is less the 'rebel' status that it might bestow and more the satisfaction that your mashup has achieved some level of recognition."[63] A cease-and-desist letter signifies that a mashup has been worthy of notice.

THE STRANGE CASE OF GIRL TALK

As discussed at length in Chapter 1, Girl Talk (real name Gregg Gillis) specializes in what I call the megamix mashup. He has released four full-length albums of megamix mashups since 2003.[64] Each album is made up exclusively of samples from 50-250 different songs by a wide array of artists, and all of the albums are available for download on the website www.illegalart.net at a pay-what-you-want (including $0) price. The albums are, interestingly enough, also available for around $15 from traditional outlets such as www.amazon.com, and even at some physical stores like Borders. Anyone with a rudimentary knowledge of copyright law would agree with *New York Times Magazine*'s statement that "Girl Talk's music is a lawsuit waiting to happen."[65] What makes this such a strange case is the fact that no lawsuits *have* happened. After using hundreds of unlicensed (and very recognizable) samples, Girl Talk has not been sent a single cease-and-desist letter. Because most of the samples he uses are relatively short, and because he feels that his records are unlikely to affect the sales of the sampled artists' records in a negative way, Gillis defends his behavior by claiming that it falls under fair use.[66] However, as we saw in the cases against both Biz Markie and NWA, this is a risky legal position to take and a difficult position to defend once an art proves itself to being commercially viable. If sued, the court is the ultimate arbiter of whether or not the use of copyrighted material is fair use, and the legal process is nothing if not expensive, even if the case is decided in favor of fair use.[67] So why haven't record companies sent cease-and-desist letters? Perhaps in this particular case, the record companies face a greater risk than the potential defendant.

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[62] Ibid., 208.

[63] Ibid., 209.

[64] Girl Talk's debut album *Secret Diary* (2002), although also made entirely from previously existing tracks, was much more experimental in nature. The reviews on the internet are almost all negative, and the

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album itself fits more into the category of glitch pop than mashup, due to the heavy manipulation of the samples and the exploitation of electronic noises.

[65] Rob Walker, "Mash-Up Model," *New York Times Magazine*, July 20, 2008, http://www.nytimes.com/2008/07/20/magazine/20wwln-consumed-t.html [accessed 30 April, 2011].

[66] Robert Levine, "Steal This Hook? D.J. Skirts Copyright Law," *The New York Times*, August 7, 2008.

[67] Demers, *Steal This Music*, 25.

David Mongillo theorizes that the record companies have not sent cease-and-desist letters to Girl Talk because they would almost certainly not stop him from doing what he is doing, and that his legal resources and legal arguments are such that he may well be able to defeat a record label in court.[68] Because of Girl Talk's financial success, it is unlikely that his record label, Illegal Art,[69] *would* cease and desist, as demanded by such a letter, and the litigious record company would be forced to either do nothing (as in the case of the *Grey Album*) or to file a formal lawsuit. Precedent is important in lawsuits – if a decision regarding sampling has already been made in a U.S. courtroom, that decision can be used as evidence when trying new cases of a similar type. Mongillo's main argument is that because of the number of samples he uses and the transformative nature of his work, Girl Talk's music is different from Biz Markie's or other hip hop artists' and should not be judged based on previous sampling lawsuits.[70] He claims that Gillis's defense of fair use is justifiable and should be upheld if he is ever sued for his work.[71]

Perhaps because mashups are clearly transformative, often parodic (another class that helps establish fair use), and rarely commercial, the record companies have been increasingly forced to tolerate mashups and other similar types of user-produced copyright-infringing works. On August 17, 2010, music producer Nick Pittsinger uploaded an unlicensed remix of Justin Bieber's "U Smile."[72] Pittsinger's version of Bieber's song doesn't change anything – except the speed. This version of "U Smile" is slowed down 800 percent. Bieber's original track is three minutes and 21 seconds long; the remix lasts over 35 minutes. Although it would almost certainly be considered copyright infringement if Island Records (Bieber's record label) were to sue Pittsinger, they are choosing not to do so. A spokesperson from the label said, "'No, we are not trying to take this down….People seem to love it and Justin [Bieber] thinks it's great.'"[73]

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[68] David Mongillo, "The Girl Talk Dilemma: Can Copyright Law Accommodate New Forms of Sample-Based Music?," *University of Pittsburgh Journal of Technology Law & Policy* 10 (2009): 1-32.

[69] Illegal Art is both a record label and a distribution website, www.illegalart.net.

[70] Mongillo, "The Girl Talk Dilemma," 5.

For more on how Girl Talk's megamix mashups differ from sampling in hip hop, see Chapter 1.

[71] Mongillo, "The Girl Talk Dilemma."

But while record companies may be trying to avoid the negative publicity generated by lawsuits, some members of the U.S. Congress have been working to amend copyright law yet again, this time dealing ostensibly with websites that routinely host copyright-infringing material. For instance, at the time of writing, the Combating Online Infringement and Counterfeits Act has passed through the Senate Judiciary Committee, and will go to Congress in 2011.[74] This bill would give the Justice Department the power to shut down websites that illegally hosted copyrighted material, including music, for download.[75] If the website in question is outside the U.S., the government then has the power to force all U.S. internet service providers to block access to it.[76] The Electronic

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[72] In Chapter 1, I defined a remix as being any new version of an already-recorded song (which may or may not bring new material into the mix).

[73] Quoted in Ben Sheffner, "The Legal Issues Behind the Slowed-Down Justin Bieber Track," *Billboard*, August 18, 2010, http://www.billboard.biz/bbbiz/content_display/industry/e3iec6d7b7151e772347cadf64502e83dac [accessed 30 April, 2011].

[74] http://www.govtrack.us/congress/bill.xpd?bill=s111-3804 [accessed 30 April 2011]

[75] The bill also applies to websites that sell counterfeit goods and pirated movies.

[76] Doug Palmer, "US Senate Panel Passes Bill Against Piracy Websites," *Reuters*, November 18, 2010, http://www.reuters.com/article/idUSN1828922520101118 [accessed 30 April, 2011].

Frontier Foundation, a digital-rights organization, has speculated as to which websites would most likely be shut down by such a law; several mashup websites are on the list.[77]

PROPOSED LEGAL CHANGES TO ACCOMMODATE THE MASHUP

There are many supporters of the current copyright law. The Recording Industry Association of America (RIAA), for example, states on its website that it “works to protect the intellectual property and First Amendment rights of artists and music labels; conduct consumer, industry and technical research; and monitor and review state and federal laws, regulations and policies.”[78] Peter Givler, the Executive Director of the Association of American University Presses also argues for the protection that copyright offers authors. He argues that copyright law not only gives authors control over the distribution of their works, but also helps authors become recognized for those works.[79] And of course, I have already mentioned other supporters of the law above – those individuals, estates, and companies who championed for longer and longer copyright terms.

Although copyright is not a bad idea in itself, many authors argue that current U.S. copyright law is out-of-date and needs to be updated to deal with twenty-first century art forms.[80] Tarleton Gillespie argues that whenever a new technology is introduced, it always causes aspects of confusion with regards to copyright law because the technology transforms existing social, economic, and legal relations in a way that fundamentally changes the nature of the underlying rights.[81] Often technology makes it possible to create new rights where they never existed before. Such was the case, for instance, with recording, which allowed for the creation of both mechanical and performing rights. As discussed earlier in this chapter, copyright law was amended at the time to establish a formal legal framework for asserting these derivative rights; perhaps it needs to be amended again to accommodate sampling and mashups in a similar way. Kembrew McLeod says that "[t]he reason these collage practices seem so natural and copyright industries have been unsuccessful in convincing people that it's wrong is that this kind of borrowing is a natural part of being a sentient being."[82] This rings true – in Chapter 3 I trace historical uses of borrowing and their similarities to mashup production. The main difference now is that instead of writing out quotations for musicians to play, mashup artists and hip hop producers snip them directly from recorded performances. Siva Vaidhyanathan remarks on the irrationality of the current legal situation with regards to the *Grey Album*: "Another of the absurdities of the music industry is that nobody made a dime [from the *Grey Album*]. Nobody made a dime from one of the most successful albums of 2004, and it didn't have to be that way. If we had a more rational system for dealing with samples, then perhaps somebody deserving would have been able to make a little bit of money off of this amazing phenomenon."[83]

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[77] Daniel Tencer, “Will Internet Censorship Bill be Pushed Through Lame-Duck Congress?,” *The Raw Story*, November 14, 2010, http://www.rawstory.com/rs/2010/11/internet-censorship-pushed-congress/ [accessed 30 April, 2011].

[78] http://riaa.com/aboutus.php?content_selector=about-who-we-are-riaa [accessed 30 April, 2011]

[79] Peter Givler, “Copyright: It’s For the Public Good,” *The Chronicle Review* (May 9, 2003).

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[80] See Demers, *Steal This Music*; Gillespie, *Wired Shut*; McLeod, *Freedom of Expression (R)*; McLeod, "Confessions of an Intellectual (Property)."; Vaidhyanathan, *Copyrights and Copywrongs*; Fiona Morgan, "Copywrong: Copyright Laws are Stifling Art, But the Public Domain Can Save Us," *The Independent Online*, December 3, 2003, http://www.indyweek.com/gyrobase/Content?oid=oid%3A20610 [accessed 30 April, 2011]; Steve Hochman, "Judge Raps Practice of `Sampling' Pop Music," *Los Angeles Times*, December 18, 1991; Gifford, "Innovation and Creativity in the Fine Arts: The Relevance and Irrelevance of Copyright."; Kaplicer, "Rap Music and De Minimis Copying."; Don Snowden, "Sampling: A Creative Tool or License to Steal?," *Los Angeles Times*, August 6, 1989; Aaron, "Gettin' Paid: Is Sampling Higher Education or Grand Theft Auto?"; Lawrence Lessig, *Free Culture: The Nature and Future of Creativity* (Penguin, 2005); Lessig, *Remix*; Jason H. Marcus, "Don't Stop That Funky Beat: The Essentiality of Digital Sampling to Rap Music," *Hastings Communications and Entertainment Law Journal* 13 (1991): 767-790; Thomas G. Schumacher, "'This is a Sampling Sport': Digital Sampling, Rap Music and the Law in Cultural Production," *Media, Culture and Society* 17 (1995): 253-273; Simon Frith, "Copyright and the Music Business," *Popular Music* 7, no. 1 (January 1988): 57-75; Robert S. Boynton, "The Tyranny of Copyright?," *New York Times Magazine*, January 25, 2004.

[81] Gillespie, *Wired Shut*, 14.

[82] McLeod, *Freedom of Expression (R)*, 74.

Jason Marcus argues that U.S. copyright law has not yet caught up with current methods of artistic production and proposes to change the law to make it better suited to contemporary music, including mashups. He suggests a licensing scheme, which would come about through negotiation between the sampled party and the sampling party in order to reduce legal costs for both parties.[84] But a lot of people would have to agree to play along with this licensing scheme. Right now, says Marcus, because they know that record labels can refuse permission to use a sample, many artists think it unwise to ask before they take, since asking for permission can be construed by a court as evidence that permission was needed.[85] Commercial exploitation is the main consideration in Marcus's proposal. If a sampling party is going to make money from the use of the sample, the sample should have a price. But someone making a mashup and distributing it for free should not have to pay as much, he says. The amount charged should also depend on "how important a part the use plays in the new composition, how many times the sample is repeated in the sampler's work, and whether the use is offensive to the holder of the copyright."[86] Such a method would result in a lot less confusion about the law and more freedom for artists to express themselves, as well as fair financial rewards to those artists whose music is sampled.

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[83] Benjamin Franzen and Kembrew McLeod, *Copyright Criminals*, DVD, 2009.

[84] Marcus, "Don't Stop That Funky Beat: The Essentiality of Digital Sampling to Rap Music," 785-86.

[85] Ibid., 787.

Other authors suggest that judges and lawyers educate themselves about the traditions of hip hop and dance music in order to make better informed decisions about whether or not a copyright has actually been violated. Brett Kaplicer, an attorney, encourages judges *not* to use precedent when adjudicating cases of potential copyright infringement in hip hop.[87] The issue at heart is basically, how transformative the work in question is. Kaplicer suggests looking at the length of the sample – how integral was this piece of music to the work from which it was taken? How integral is it to the new work? How much did the defendant change the sample to incorporate it into his/her music? After answering these questions, the sample can sometimes be seen as *de minimis* – "a technical violation of a right so trivial that the law will not impose legal consequences."[88] Most of the samples that Public Enemy used on their first two albums, for example, would certainly be considered *de minimis*. They took small, usually unrecognizable fragments – one individual sample was not integral to the original work or to the Public Enemy song – and often transformed them a great deal as well. Kaplicer argues that using this approach would lead to a much more diverse musical terrain in the rap world.[89] It would also help guide hip hop artists as to what kind of sampling is legal and what is not. As it stands right now, it is very risky to attempt something and hope that a judge will agree that it is protected by fair use.[90]

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[86] Ibid., 789.
[87] Kaplicer, "Rap Music and De Minimis Copying."
[88] Ibid., 245.
[89] Ibid., 254-55.

The mashup is a challenge to the legal system, and is not very compatible with the current system of copyright law in the United States. However, the technology to make mashups, while not always available to amateurs, has been around for decades. Copyright law began to fall behind at the advent of digital sampling – about thirty years ago – and there have been two significant revisions to the code since then. A change in the law to deal effectively with sampling seems long overdue. The main difference between obtaining permissions as a hip hop artist and obtaining permissions as a mashup artist is financial. Mashups are an amateur art form. The average mashup artist does not have the kind of money that a hip hop artist who is signed to a major record label has. In the words of Jeff Chang (cofounder of SoleSides Records): "Sampling law has created two classes. You're either rich enough to afford the law, or you're a complete outlaw."[91] It seems that mashup artists right now face a stark, and for most, impossible choice: either be very rich and obtain permission to make legal mashups, or operate outside the law. Unless the law changes, mashups will remain an outlaw art form.

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[90] Lessig, *Free Culture*, 107.

[91] Franzen and McLeod, *Copyright Criminals*.

Chapter 3: Historical Precursors to the Mashup

As Chapters 1 and 2 have shown, mashups are closely related to digital sampling in hip hop. The main difference is that a hip hop recording that uses samples adds new material to the samples, whereas a mashup uses *only* samples (or sound-alikes). Sampling, as it is found in both hip hop music and mashups, is not a particularly new practice. Indeed, Mark Katz argues that "[a]s a form of musical borrowing, the roots of digital sampling reach back more than a millennium."[1] As Hugh Arthur Scott claimed already in 1927, borrowing is as intrinsic to human nature as is creation. Every creator, from architects to choreographers to composers, "must inevitably build upon the foundations provided by his predecessors."[2] J. Peter Burkholder notes that musical borrowing is usually studied within the work of a specific genre, time period, or composer.[3] However, borrowing is by no means limited to those particular constraints. Because using previous works in new compositions is such a universal procedure, Burkholder creates a typology of borrowing procedures that cross those lines. Although the body of Burkholder's work concentrates on the music of Charles Ives, the procedures that he identifies are applicable to music by any composer, for any historical period or musical style. Following Burkholder's example, I trace a history of musical borrowing, repurposing, and appropriation in this chapter.

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[1] Mark Katz, *Capturing Sound: How Technology Has Changed Music* (Berkeley: University of California Press, 2004), 139.

[2] Hugh Arthur Scott, "Indebtedness in Music," *The Musical Quarterly* 13, no. 4 (1927): 497.

[3] J. Peter Burkholder, "The Uses of Existing Music: Musical Borrowing as a Field," *Notes* 50, no. 3 (1994): 851.

Although mashups are a recent phenomenon, they have been preceded by a rich history of musical borrowing and reuse. Not all of these historical trends can be said to have directly influenced mashup artists, but appropriating and repurposing music has been a compositional activity since at least as far back as the Middle Ages. Many accounts of digital sampling begin with a brief history of borrowing in Western art music, focusing especially on experimental composers of the mid-twentieth century.[4] It seems that some of these authors cite art music composers in order to validate the sampling aesthetic of popular contemporary artists. The thrust of these arguments is that because musical borrowing is an accepted technique in art music, it should therefore be accepted, both artistically and legally, when it happens in popular music. Such connections, however, can often seem quite artificial and in my historical examination of musical borrowing in a variety of genres – popular, classical, religious, secular, chamber music, symphonies, operas, etc. – I do not seek to create a synthetic lineage of influence. Instead, I retrace this history of borrowing to remind us that it seems to be in the nature of composers to use and repurpose whatever they have on hand when creating, regardless of the time period and genre. Mashups, despite sometimes being heralded as brand new musical developments,[5] actually have many precedents. Borrowing, as Burkholder defines it, encompasses many procedures: he includes everything from vague references to another genre of music to direct quotation in his explanation.[6] My own investigation will be limited to those works that feature quotation, but will include quotations where the material has been minimally changed.

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[4] Katz, *Capturing Sound: How Technology Has Changed Music*; Demers, *Steal This Music*; McLeod, *Freedom of Expression (R)*; Christoph Cox and Daniel Warner, *Audio Culture: Readings in Modern Music* (New York: Continuum, 2004); David Toop, *Ocean of Sound: Aether Talk, Ambient Sound and Imaginary Worlds* (London: Serpent's Tail, 1995); Hugh Davies, "A History of Sampling," in *unfiled: Music Under New Technology*, n.d., 5-12.

[5] David J. Gunkel, "Rethinking the Digital Remix: Mash-ups and the Metaphysics of Sound Recording," *Popular Music and Society* 31, no. 4 (2008): 489-510; Howard-Spink, "Grey Tuesday, Online Cultural Activism and the Mash-Up of Music and Politics."; Corey Moss, "Tech-Savvy DJs Have Destiny's Child Singing With Nirvana," *MTV Online*, August 1, 2002, http://www.mtv.com/news/articles/1456399/20020801/destinys_child.jhtml [accessed 30 April, 2011].

WESTERN MUSIC FROM A WRITTEN TRADITION

In the Middle Ages, tropes were composed as additions to already-existing chant melodies of the mass. The composers of these tropes used a chant melody as a starting point and added their own embellishments. There were different kinds of tropes: some involved melismas inserted into the middle of a chant melody, some were simply the composition of additional words for a chant, and some involved both music and text. The tropes were grafted into the original melody in a strictly horizontal manner: there was no vertical overlap between the chant melody and the trope. For example, the Introit from the Mass for Christmas Day found in the *Liber usualis* begins with a melody sung to the words "Puer natus est nobis."[7] However, the trope "Quem quaeritis in praesepe" was written in the tenth century to immediately precede the "Puer natus."[8] This trope consists of entirely new words and music. People began writing these interpolations in the ninth century and did so until the Council of Trent banned the practice in the fifteenth century.[9]

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[6] J. Peter Burkholder, "Borrowing," *Grove Music Online* [accessed 30 April, 2011].

[7] Claude V. Palisca, ed., *Norton Anthology of Western Music*, vol. 1, fourth ed. (New York: W.W. Norton & Co., 2001), 8.

[8] Ibid., 1: 38-39.

[9] Alejandro Enrique Planchart, "Trope," *Grove Music Online* [accessed 30 April, 2011].

Tropes emerged at roughly the same time as polyphony, another musical practice based on repurposing existing musical materials. Early polyphony, beginning in the ninth century, was called organum, and it consisted of a principal voice and an organal voice. The principal voice sung a preexisting chant melody, while the organal voice was added later, and was usually lower than the principal voice. The organal voice tended to move in parallel fourths and fifths with the principal voice, and the two voices would converge in a unison or an octave at phrase endings.[10] While tropes interacted with borrowed material on a purely horizontal plane, organal voices added a vertical dimension, placing the chant melody in a new contrapuntal context. Organum continued to be used as late as the sixteenth century in Germany, with many changes taking place as the practice evolved.[11] While the original chant melody was retained in all types of polyphony, as the newly-composed organal voice became more and more decorated and multiple organal voices were added, the original melody became less and less recognizable in the texture of the new music.

The thirteenth-century motet was based on organum (which itself, reused chant melodies). A composer took a complete section of organum (called a clausula) and repurposed it by adding new words to the organal voice(s). For example, the anonymous motet “Amours mi font/En mai/Flos Filius eius” consists of three lines of music. [12] The lowest part is a section of the chant melody “Virgo Dei Genitrix.” This part retains the original sacred text, “Flos Filius eius.” The middle line originated as a newly composed organal voice to go with this chant. Finally, the uppermost line – the most recently written of the three – is also newly composed. The composer of this top line of music also added secular text to the upper two parts – "Amours mi font" to one, and "En mai" to the other. This is an example of a chant melody being doubly re-used, and also entirely repurposed. What originated as a monophonic melody sung in church has become a three-part secular song. (Though often the new text of motets remained sacred as well.)

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[10] Albert Seay, *Music in the Medieval World* (Englewood Cliffs, NJ: Prentice-Hall, 1975), 82-83.

[11] Rudolph Flotzinger, “Organum of the 13th Century and Later,” *Grove Music Online* [accessed 30 April, 2011].

[12] Palisca, *Norton Anthology of Western Music*, 1: 74-76.

Polyphonic masses during the later Middle Ages were often composed based on pre-existing music: a *cantus firmus*. The composer could use the same melody as the basis for all movements of the mass (a *cantus firmus* mass) or he could choose a different melody on which to base each movement.[13] The *cantus firmus* was generally taken from the chant repertoire, but it could also come from a popular secular melody. Composers of polyphonic masses had the opportunity for their newly composed material to interact with the *cantus firmus* on both vertical and horizontal planes. The melodies were placed into contrapuntal and harmonic settings, like in organum, but the *cantus firmi* themselves were also changed. The composer usually set the *cantus firmus* in long note values, and greatly elaborated it.[14] In the sixteenth century, the imitation mass (or parody mass) started to become popular. Instead of using a single, unaltered melody from a preexisting composition, composers like Josquin borrowed motives and phrases from all of the voices of a preexisting composition, and they could be changed as needed.[15] This gave them even more compositional freedom, while still basing their ideas on preexisting music.

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[13] Donald Jay Grout and Claude V. Palisca, eds., *A History of Western Music*, sixth ed. (New York: W.W. Norton & Co., 2001), 137.

[14] Lewis Lockwood and Andrew Kirkman, "Mass: The Polyphonic Mass to 1600," *Grove Music Online* [accessed 30 April, 2011].

[15] Grout and Palisca, *A History of Western Music*, 66.

One of the most popular genres that used borrowed material during the Baroque period was the quodlibet. Although developed in the fourteenth century, this type of piece became very popular during the seventeenth and eighteenth centuries.[16] A quodlibet is a humorous piece that combines various well-known melodies in succession, like a medley. The point of the quodlibet seems to have been one of showing off the composer's cleverness and technical skill at combining different, unrelated melodies. For example, the last movement of Bach's *Goldberg Variations* (variation 30) is a quodlibet based on two popular German folk songs: "Long Have I Been Away From Thee" and "Cabbage and Turnips."[17] The quodlibet is actually the genre that matches up the closest with the modern-day mashup, in terms of intention – a composer takes two or more songs and juxtaposes them in a humorous or skillful way. In both types of composition, humor results from songs of a differing style and lyrical topic being pushed up against one another; two things that should not work well together somehow do, providing the composer can bring out their hidden musical similarities.[18]

Of course, the most famous musical borrower of the Baroque period was George Friedrich Handel.[19] The fact that he reused the work of multiple composers without acknowledgement is indisputable, but the ways in which he did so varied greatly. Sometimes only a small idea was borrowed from another composer's work, and Handel took it as a bit of inspiration to create his own piece. In other cases, as Scott notes, "whole movements would be lifted bodily and reproduced virtually unaltered."[20] (An example of this latter practice is the movement "Egypt was Glad" in *Israel in Egypt*, the music for which was taken from a keyboard piece by Johann Kerll.) The former instance is yet another example of creatively adding something to a preexisting idea. The latter instance, however, seems to be a bit more unimaginative. Handel's borrowings were unique in his era: although most composers of the period borrowed music, and borrowed music extensively, no other composer of his reputation engaged in it to the same extent that Handel did.[21] The only area of argument now among Handel scholars, regarding his appropriations, is whether or not the composer thought that he was doing something wrong during some of his more obvious plagiarisms.[22]

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[16] Maria Rika Maniates et al, "Quodlibet," *Grove Music Online* [accessed 30 April, 2011].

[17] Davies, "A History of Sampling," 11.

[18] Chapter 1 shows how closely the two genres match up based on constructive principles. For more about the juxtaposition of different styles resulting in humor, see Chapter 4.

[19] Certainly, Handel's borrowings would be treated differently if they occurred today. In the eighteenth century, copyright law in Europe applied only to books, not music. Handel's borrowings were perfectly legal, but authors still question the ethics of these appropriations.

Composers in the eighteenth and nineteenth centuries continued to use borrowed melodies. Haydn, for example, arranged various folk songs for voice and accompaniment. He also quoted and paraphrased folk songs in his own original works. Burkholder suggests that he may have done so to "suggest a folkish atmosphere."[23] Using folk tunes is similar to using using a musical topic, but not exactly the same. A musical topic is not a direct quotation from a specific piece of music. Rather, it is a figure that has a "conventional meaning, understood by all hearers."[24] Even though one involves direct quotation and the other does not, composers make use of musical topics for the same reason that they use quotations: to instill their music with a certain kind of specific meaning. This is similar to the reason that hip hop artists and mashup creators use samples: a sample relays some of its original meaning to a listener who recognizes it, no matter how bizarrely it is recontextualized. Using a soul sample, for example, can give a work a certain amount of power because it is drawing upon the power of a respected genre.[25] The same idea is true for Haydn's use of folk tunes: the recognizable tune brings certain associations with it to the new work.

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[20] Scott, "Indebtedness in Music," 500.

[21] Anthony Hicks, "George Frideric Handel: Borrowing," *Grove Music Online* [accessed 30 April, 2011].

[22] John H. Roberts, ed., *Handel Sources: Materials for the Study of Handel's Borrowing* (New York: Garland, 1986); George J. Buelow, "The Case for Handel's Borrowings: The Judgment of Three Centuries," in *Handel: Tercentenary Collection*, ed. Stanley Sadie and Anthony Hicks (Ann Arbor: UMI Research Press, 1987), 61-82.

[23] J. Peter Burkholder, "Borrowing: Late 18th Century," *Grove Music Online* [accessed 30 April, 2011].

For this very reason, composers continued to quote folk songs, national anthems, and other tunes in the nineteenth century as well, despite the Romantic valorization of originality. Brahms, for example, uses German student songs in his *Academic Festival Overture*.[26] Composers in both the eighteenth and nineteenth centuries also borrowed music from composers they wished to pay homage to. Robert Schumann famously quoted Beethoven's *An die ferne Geliebte* song cycle in his own Fantasy for Piano (op. 17).[27] Chopin tipped his hat to Mozart when he wrote a set of variations for piano and orchestra based on the aria “Là ci darem la mano” from *Don Giovanni*.[28] Quotations like these draw the listener who recognizes them in to an immediate connection with the past.

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[24] Raymond Monelle, *The Musical Topic: Hunt, Military and Pastoral* (Bloomington: Indiana University Press, 2006), 3.

[25] Joanna Teresa Demers, "Sampling as lineage in hip-hop" (Ph.D. Dissertation, Princeton University, 2002), 90.

[26] J. Peter Burkholder, "Borrowing: 19th Century," *Grove Music Online* [accessed 30 April, 2011].

[27] Eric Frederick Jensen, *Schumann* (New York: Oxford University Press, 2001), 162-163.

The eighteenth and nineteenth centuries also saw a type of composition similar to the mashup, called the potpourri. The potpourri was a medley of melodies from popular operas, similar to “Hooked on Classics” (but without the disco beat). Czerny wrote a potpourri based on arias from Louis Spohr’s *Faust*,[29] for example, and Sarasate’s various fantasies for violin and piano also fall into this category. The idea behind this type of composition is to give the audience many different recognizable themes in a short amount of time. Sarasate’s fantasy on Bizet’s *Carmen*, for example, adapts the themes from the “Aragonaise,” “Habañera,” an interlude, “Seguidilla,” and “Gypsy Dance” in less than twelve minutes total. Also similar to the potpourri is the medley overture (also called the potpourri overture). Developed in the late eighteenth century, the medley overture exposes the important themes from the opera that is about to follow. This type of overture was common in comic operas and operetta, and continues to be the dominant form of overture in musical theater today.[30] The main difference between the potpourri and the medley overture, with respect to borrowing, is the composer. Most potpourri works were pieced together from an opera by a different composer. The new composer would repurpose the popular themes by stringing them together in a new work. A medley overture, on the other hand, is written by the same composer who wrote the opera or musical from which its themes derive.[31]

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[28] Although it should be noted that variations do not always directly quote the theme that they are varying.

[29] Andrew Lamb, “Potpourri,” *Grove Music Online* [accessed 30 April, 2011].

[30] Stephen C. Fisher, “Medley Overture,” *New Grove Dictionary of Opera Online* [accessed 30 April, 2011].

The eighteenth and nineteenths centuries both saw an increased number of insertion arias in opera. Both Rossini and Wagner, for example, helped start their careers by writing arias for particular singers, to be inserted into other composers' operas.[32] Haydn and Mozart also composed insertion arias for specific singers in their own operas. This practice, taken to an extreme, became what is known as a *pasticcio*, or an opera made of pieces pasted together by different composers. This type of "operatic pie"[33] was very popular in the eighteenth century. Like insertion arias, the numbers in the *pasticcio* were chosen to suit particular singers' voices. For this reason, the operas had different numbers each time they were performed, compelling musicologists to retrace the histories of various *pasticci*.[34]

American popular song of the early twentieth century also frequently featured musical borrowing. George M. Cohan, for example, used what Burkholder calls the "patchwork" technique to sew together melodies from several traditional and patriotic American songs.[35] Cohan managed to quote "Yankee Doodle," "Dixie," "The Girl I Left Behind Me," "The Star Spangled Banner," and "The Battle Cry of Freedom" (the last of which Burkholder does not mention) all within thirty-four measures of his 1904 song "Yankee Doodle Boy."[36] (See Example 3.1)

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[31] Although the overture was sometimes written by a different composer, hired to write only the overture.

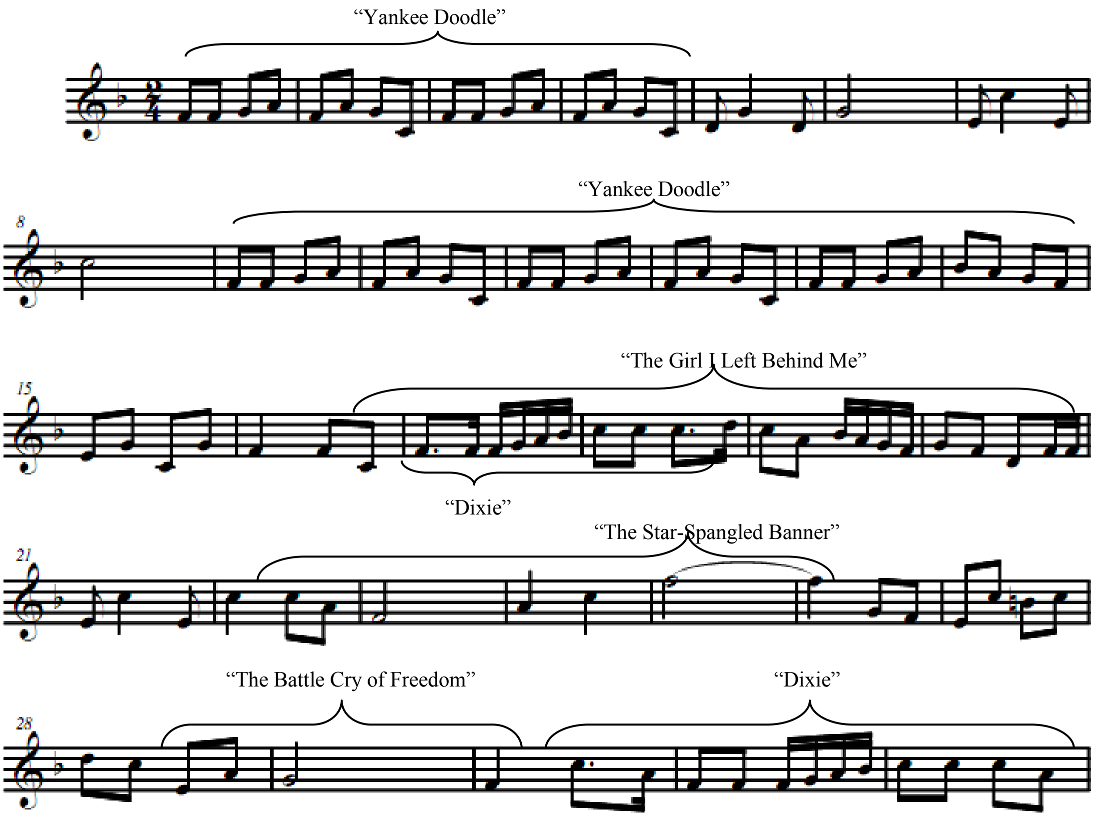
[32] Philip Gossett, "Gioachino Rossini: Early Years," *Grove Music Online* [accessed 30 April, 2011].

[33] O. G. Sonneck, "Ciampi's 'Bertoldo, Bertoldino e Cacasenno' and Favart's 'Ninette à la Cour': A Contribution to the History of Pasticcio," *Sammelbände der Internationalen Musikgesellschaft* 12 (1911): 526.

[34] Frank Walker, "'Orazio': The History of a Pasticcio," *The Musical Quarterly* 38, no. 3 (1952): 381-383; Sonneck, "Ciampi's 'Bertoldo, Bertoldino e Cacasenno' and Favart's 'Ninette à la Cour'," 534-537.

[35] Burkholder, *All Made of Tunes*, 322.

Example 3.1:
George M. Cohan, "Yankee Doodle Boy," mm. 1-34


"Yankee Doodle"
8
"Yankee Doodle"
15
"The Girl I Left Behind Me"
"Dixie"
21
"The Star-Spangled Banner"
28
"The Battle Cry of Freedom"
"Dixie"

The quoted or paraphrased songs are stitched together using Cohan's own connective material, while the chorus (not shown in the example) is mostly original.[37] Irving Berlin was also fond of quoting preexisting music, both traditional songs, and ones he had written himself. In "Alexander's Ragtime Band," for example, he uses the tune "Old Folks at Home." In "Alexander's Bag-Pipe Band," he quotes both his own original song and re-quotes "Old Folks at Home." Burkholder concludes that by juxtaposing these dissimilar styles of music – Tin Pan Alley songs with traditional patriotic or American folk music – the former ends up creating commentary on the latter.[38] In this way, composers can use their own contemporary style to present melodies of the past from their own particular perspectives. This type of commentary is very similar to the type produced by the reuse of recorded music in mashups.

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[36] Ibid., 322-324.

The beginning of the twentieth century also saw the development of motion pictures. Pianists, and sometimes other musicians, were employed by movie theaters to accompany silent films.[39] The accompaniment was made up of many borrowed tunes – such musicians as Gregg Frelinger, J. S. Zamecnik, and Erno Rapée published books of musical cues for movie pianists. Consisting of both newly composed music and traditional melodies, the books were organized according to particular moods (impatience, humorous, gruesome, passion, etc.), areas of the world (oriental, southern, Germany, France, etc.), or characters (aged persons, buffoon, children, hobo, etc.) that the music was supposed to represent. The pianist, then, would pay attention to the action on the screen, and play whatever tunes from the books she felt would go well with the

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[37] Ibid., 322.

[38] Ibid., 326.

[39] James Buhler, David Neumeyer, and Rob Deemer, *Hearing the Movies: Music and Sound in Film History* (New York: Oxford University Press, 2010), 257.

movie and help comment upon the plot.[40] Silent film accompaniment, then, was often constructed as a live medley of familiar songs being used to help tell a story. The pianist/arranger created a new "work" by repurposing borrowed tunes.

Classical composers continued to use borrowed music into the twentieth century. Richard Strauss, for example, composed incidental music for an adaptation of *Le Bourgeois Gentilhomme* in 1912. The original was written by Lully (libretto by Molière) in 1670, and the adaptation (libretto by Hofmannsthal) was called *Ariadne auf Naxos*.[41] Not only was the libretto borrowed, but the music was as well – Strauss directly quoted some of Lully's music. Charles Ives, of course, was one of the most famous users of borrowed tunes during the twentieth century, quoting and reworking various American folk songs and patriotic tunes.[42] Stravinsky's ballet, *Pulcinella* (1920), was also based on preexisting music – it was adapted from the music of Pergolesi.[43] Luciano Berio took borrowing to an extreme when he wrote his most famous work, *Sinfonia*, in 1968. In the third movement, he creates a collage using a large portion of the scherzo from Mahler's second symphony. He rearranges Mahler's music and also quotes Beethoven, Ravel, Debussy, Strauss, Schoenberg, Berg, and Stockhausen.[44] In addition to these musical quotes, Berio also instructs the singers to speak from various recycled texts. The most extensive quotation is from Samuel Beckett's play, *The Unnamable*. John Zorn also writes collage-style works that sound very disjointed, like a mishmash of genres. The performance of each piece, like *Cat O' Nine Tails* and *Carny* requires players who can jump from style to style very quickly in order to create the effect of "a sort of musical channel-surfing"[45] that is intended.

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[40] Ibid., 261.

[41] Bryan Gilliam, "Richard Strauss: The Opera Composer, 1898-1916," *Grove Music Online* [accessed 30 April, 2011].

[42] Burkholder, *All Made of Tunes*.

[43] Stephen Walsh, "Igor Stravinsky: Exile in Switzerland 1914-20," *Grove Music Online* [accessed 30 April, 2011].

[44] Demers, "Sampling as lineage in hip-hop," 111.
Berio's *Sinfonia* is also mentioned in Chapter 1.

MUSIC FROM AN ORAL TRADITION

Borrowing has always been an integral part of musics that are passed on in the oral tradition. Folk music, African-American spirituals and work songs, and the blues are just a few examples. When music is not written down, it passes from town to town, from generation to generation, through people's memories. Memories are not always accurate, of course. A line of text may be forgotten, a melody rises instead of falls. And people also have the desire to make songs their own. For example, versions of a folk song in different locations will have different place names in them, to make the songs more localized.[46] Due to a combination of human error and creativity, songs in the oral tradition change over time, and common melodies are used for many songs with different lyrics. This reuse of common melodies to suit individual purposes was common well into the twentieth century. Kembrew McLeod notes in his book that he found six older country music songs with exactly the same melody.[47] As for the reason behind these identical melodies, McLeod speculates that it is because these country musicians were raised in a culture in which folk melodies were used and reused time and again, without regard for copyright or the Romantic notion of originality.

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[45] John Brackett, *John Zorn: Tradition and Transgression* (Bloomington: Indiana University Press, 2009), xi.

[46] Roger Renwick, "From Newry Town to Columbus City: A Robber's Journey," in *Recentering Anglo/American Folksong* (Jackson: University Press of Mississippi, 2002), 26.

Newman White observed in his collection of African-American folk songs that "The notes of the songs in my whole collection, show nothing so clearly as the tendency of Negro folk-songs to pick up material from any source and, by changing it or using it in all sorts of combination, to make it definitely its own."[48] This process is surely not exclusive to African-American folk songs; it seems to ring true among Anglo-American folk songs as well. Makers of folk music regard songs as communal property, rather than exalting the original composition as sacred and unchangeable.[49] In fact, variation is one of the most salient aspects of folk song in general. Song collectors like Francis James Child collected many variations of similar songs, and cataloged the different versions found in different locations.[50] One of the research activities of folklore scholars involves tracing the historical development of various versions of songs in the oral tradition.[51]

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[47] Kembrew McLeod, *Owning Culture: Authorship, Ownership, and Intellectual Property Law* (Peter Lang Publishing, 2001), 43.

[48] Newman White, *American Negro Folksongs*, 1928, quoted in Andrew Bartlett, "Airshafts, Loudspeakers, and the Hip Hop Sample: Contexts and African American Musical Aesthetics," *African American Review* 28, no. 4 (1994): 649.

[49] J. Peter Burkholder, "Borrowing: Popular Music, Jazz, Film Music," *Grove Music Online* [accessed 30 April, 2011].

[50] Francis James Child, *The English and Scottish Popular Ballads, Volume 1*, 1882.

[51] For example, Renwick, "From Newry Town to Columbus City: A Robber's Journey."

Henry Louis Gates, Jr. identifies a practice in the African-American oral tradition known as "signifyin(g)," which emphasizes a creative borrowing of ideas.[52] Signifyin(g), Gates explains, entails using a piece of someone else's music and transforming it to suit one's own purposes. It simultaneously recalls the source material and comments on it, using double-voicedness.[53] This commentary can be either positive or negative: you can either signify to pay homage to a work, or to poke fun at it. Gates gives jazz music as an example of musical signifyin(g): jazz musicians perform standards, yet their own voice also comes through in the improvisation that also constitutes the performance. It is double-voiced because a jazz performance both recalls the original tune and reworks it in a way that is congruent with the new artist. "Jelly Roll Morton signified on Scott Joplin's 'Maple Leaf Rag,'" Gates says. "Morton's composition does not 'surpass' or 'destroy' Joplin's; it complexly *extends* and tropes figures present in the original. Morton's signification is a gesture of admiration and respect."[54] Most importantly, the emphasis in signifyin(g) is not on presenting the meaning of the borrowed material. The point is not just to repeat someone else's material; instead the aim is to do something interesting with it. As Samuel Floyd puts it, "in contrast to the European musical orientation, the *how* of a performance is more important than the *what*. Certainly, African Americans have their favorite tunes, but it is what is done with and inside those tunes that the listeners look forward to, not the mere playing of them."[55]

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[52] Henry Louis Jr. Gates, *The Signifying Monkey: A Theory of Afro-American Literary Criticism* (New York: Oxford University Press, 1988).

[53] Ibid., xxv.

"Double-voicedness," a version of intertextuality, refers to the fact that the text is able to do two things at once: recalling something and commenting on it at the same time. "The black tradition," Baker says, "is double-voiced."

[54] Ibid., 63.

TWENTIETH-CENTURY TECHNOLOGY

The twentieth century saw great changes in music, due in a large part to developments of new technology. Rather than trying to go through the century's borrowed musics in a chronological fashion, I have identified four streams of twentieth-century music that deploy recording technologies and reuse material: experimental music, popular music, music in dance clubs, and sample-based hip hop. These streams mingle and cross each other, and I will discuss each category, as well as how they interact with each other.

Recording technology greatly changed the way that composers were able to borrow previously existing music. It had always been possible to reuse various parts of a composition: the instrumentation, melody line, chord progression, lyrics, and form were easily imitated. But the advent of recording made it possible not just to imitate, but to actually reuse a *specific* performance of a work, by literally copying it. This changes what the word "borrowing" means, to a certain extent. It is different for Girl Talk to take Huey Lewis's vocal line than it is for Schumann to use a melody of Beethoven's, both artistically and legally. Recording "adds new dimensions to quotation," says David Metzer.[56]

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[55] Samuel A. Jr. Floyd, *The Power of Black Music: Interpreting Its History from Africa to the United States* (Oxford University Press, USA, 1996), 96-97.

Recording technology had not been around for too long before composers started to experiment with it. As early as the 1920s, Stefan Wolpe and Ottorino Respighi were incorporating recorded sounds into their compositions.[57] Respighi wrote a piece, *The Pines of Rome*, that used a phonograph to play recordings of nightingales, and Wolpe played eight different gramophones, all at different speeds, at a Dada event. Hungarian artist László Moholy-Nagy had some particularly forward-looking ideas about records. In 1922, he wrote about the potential for the phonograph to "be transformed from an instrument of reproduction into one of production."[58]

Paul Hindemith wrote some pieces specifically for phonograph records called *grammophonplatten-eigene Stücke* in 1930.[59] These pieces were designed to show off the kinds of sounds that were possible using a record player. One of the pieces, *Gesang über 4 Oktaven*, features Hindemith himself singing a melody three times: once in a normal octave, once in a higher octave, and once in a lower octave. He accomplished this by singing the same notes each time, but the second time he sang twice as slowly as the original and the third time, twice as fast. Then he played back the records, altering them so that the speeds of all three melodies were the same: this made the second recording higher, and the third recording lower. At the end of the recording, Hindemith sings a three-note chord all by himself, accomplished by recording himself three times, playing the records at the same time, and recording the simultaneous sound.[60] In another one of the pieces, Hindemith changes the speed of recordings of his viola in order to make it sound like a violin and a cello.[61] While Hindemith was not using previously recorded music to make these pieces, I mention them because he was pioneering some of the techniques that mashup artists use today in order to fit different songs together. Although mashup artists work with digital tracks instead of turntables, they change the speed of recordings to make them fit better together, and overlay different recordings on top of one another.[62]

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[56] David Metzer, *Quotation and Cultural Meaning in Twentieth-Century Music* (New York: Cambridge University Press, 2003), 164.
[57] McLeod, *Owning Culture*, 110.
[58] László Moholy-Nagy, "Production-Reproduction: Potentialities of the Phonograph," in *Audio Culture: Readings in Modern Music*, ed. Christoph Cox and Daniel Warner (New York: Continuum, 2004), 322.
[59] Katz, *Capturing Sound*, 99.

John Cage's *Imaginary Landscape* pieces were among the first to use record players and radios as instruments. *Imaginary Landscape No. 1*, written in 1939, was a quartet for a piano, a cymbal, and two turntables played at varying speeds.[63] In 1951, he wrote *Imaginary Landscape No. 4* in which performers use twelve radios as instruments. The performers are instructed to tune the radios to specific frequencies during the course of the piece.[64] The piece, then, is different during each performance. Cage uses other people's sound (whatever happens to be on the given frequencies - music, newscasts, commercials, even static) to create his soundscape, but the result ends up being entirely random. Resulting in a similar performance, *Imaginary Landscape No. 5* (1952) calls for any 42 records to be used in performance.[65] The references that these pieces make, therefore, is different each time they are played, due to the randomness of record selection and radio frequencies.

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[60] Ibid., 100.

[61] Ibid., 100-101.

[62] More detailed discussion on the way mashup artists combine different recordings can be found in Chapter 4.

[63] Cox and Warner, *Audio Culture*, 25.

[64] Demers, *Steal This Music*, 75.

In the 1940s when magnetic tape became available, Pierre Schaeffer began to use this new medium in order to distort recordings and make them into new pieces of music.[66] Les Paul took advantage of the possibilities of new recording innovations as well. First with acetate disks, and then with magnetic tape, Paul developed a technique for multi-track recording, which essentially allowed him to play duets, trios, etc. with himself.[67] Prior to Paul's improvement, the original track became more and more muffled as additional tracks were added to it. The first commercially released recording to use multi-tracking was Paul's "Lover," released on Capitol Records in 1948. In it, he plays eight guitar parts, some of which are impossibly high and fast, due to the fact that he recorded them at half-speed, and therefore the pitch was raised and the tempo increased when the recording was played back at normal speed. This technique, developed in Paul's garage, soon became standard practice for almost all popular musicians.

The earliest example of sampling previously recorded music that appeared on the Billboard charts was a skit called "The Flying Saucer" from 1956.[68] Bill Buchanan and Dickie Goodman told the story of an alien invasion using popular songs of the day. A news announcer called John Cameron Cameron (played by Goodman) interviews people on the street about their reactions to the invasion: the people's reactions are the samples.

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[65] McLeod, "Confessions of an Intellectual (Property)," 81.

[66] John Oswald, "Bettered by the Borrower: The Ethics of Musical Debt," in *Audio Culture: Readings in Modern Music*, ed. Christoph Cox and Daniel Warner (New York: Continuum, 2004), 132.

[67] Mary Alice Shaughnessy, *Les Paul: An American Original* (New York: William Morrow and Company, Inc., 1993), 140.

[68] McLeod, "Confessions of an Intellectual (Property)," 81.
For a discussion of the lawsuit involving this song, see Chapter 2.

> **Cameron:** "Pardon me Madam, would you tell our audience what would you do if the saucer were to land?"
>
> **Little Richard, "Long Tall Sally":** "Duck back in the alley!"
>
> **Cameron:** "Thank you. And now the thin gentleman there."
>
> **Fats Domino, "Hard to Tell":** "What I'm gonna do is hard to tell."
>
> **Cameron:** "And the gentleman with the guitar, what would you do, sir?"
>
> **Elvis Presley, "Heartbreak Hotel":** "Just take a walk down Lonely Street."

In 1961, American composer James Tenney combined popular music with avant-garde techniques when he wrote *Collage #1 (Blue Suede)*. He used Elvis Presley records as his medium: chopping them up and reassembling them, speeding up and slowing down their tempos, and so forth.[69] Elvis's characteristic voice is recognizable during the middle of the 3:26 piece, but he is only ever allowed to sing one or two words before Tenney cuts him off with white noise or an extreme tempo shift. It is certainly not a danceable piece, and is clearly not intended for the mass audience of Elvis listeners. Probably the earliest example of two pop songs being heard *at the same time*, grafted on top of one another, is Alan Copeland's arrangement of the theme from "Mission: Impossible" and the Beatles' "Norwegian Wood" in 1968.[70] As noted in Chapter 1, this fits the definition of a cover mashup: no previously recorded music is used; all the parts were recorded specifically for this track.[71]

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[69] Ibid.

[70] McLeod, *Freedom of Expression (R)*, 162.

In the 1960s, popular music began to be influenced by the experimental music of composers at the time. Experimental composers like Schaeffer, Varèse, and Karlheinz Stockhausen made a great impression on several groups in the '60s, particularly the Beatles.[72] The influence of their tape-collage style can be seen in "Revolution 9" on the Beatles' self-titled album from 1968 and in Frank Zappa's "The Chrome-Plated Megaphone of Destiny" on his album from the same year, *We're Only in it for the Money*.[73] The Beatles' interest in experimental music came mostly through John Lennon's wife, Yoko Ono. She had performed with John Cage and David Tudor, among others, as a member of George Maciunas's Fluxus group.[74] Through his contact with Ono, Lennon became more interested in the musical avant-garde, which inspired him to use tape loops, tape collage, and tape played backwards on songs like "Being For the Benefit of Mr. Kite" (*Sgt. Pepper's Lonely Hearts Club Band*, 1967) as well as the abovementioned "Revolution 9." The two experimented further with tape on their joint albums *Two Virgins* (1968) and *Life With the Lions* (1969).[75]

Two groups, Negativland and Evolution Control Committee (called the "grandfathers of mash-ups"[76]) can be categorized somewhere between experimental and popular music. These groups were founded in the 1970s and '80s, respectively. While the

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[71] "Mission: Impossible Theme/Norwegian Wood" is discussed in greater detail in Chapter 1.
[72] Cutler, "Plunderphonia," 147.
[73] Ibid., 148.
[74] Pouncey, "Rock Concrète: Counterculture Plugs In To the Academy," 157.
[75] Ibid., 156.
[76] Cruger, "The Mash-Up Revolution."

Evolution Control Committee (ECC) put out one of the very first mashups (Public Enemy vs. Herb Alpert in 1993), both they and Negativland claim that they are “more into satirical audio collage than reinventing pop songs.”[77] The ECC, Negativland, and Canadian composer John Oswald all construct their works out of cut up recordings of popular music. The speeds are varied, sometimes to the point of making the original songs unrecognizable, and the records are played both forward and backward.

Another clear musical repurposing is dance music played and created by DJs. The DJ started out as simply a player of records. Employed by radio stations, he would announce each song and its artist, and play the record. However, the role of the DJ today, especially the club DJ, has become something different. In the 1970s, disco DJs began to work with two copies of the same record – on two different turntables – in order to make each song longer.[78] Eventually, twelve-inch disco medleys began to be released. These records featured seamless transitions between disco hits; the beat didn’t stop, so that people could keep dancing the entire time.[79] In order to make these kinds of seamless transitions in a live club setting, the DJ had to be skilled at beat matching. First, the two songs chosen should be relatively similar in their beats-per-minute. (Brian Todd Austin interviewed numerous DJs for his dissertation, and noted that most of them organized their records according to BPM.[80]) While one song is playing on one turntable, the DJ is listening to the other song on the other turntable, through headphones. He can then shift the tempo of the second song, if need be, and make sure that the beats of the two songs are lined up with one another. Finally, using a fader, he gradually shifts from the first song into the second song as the audience keeps dancing.[81]

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[77] Ibid.

[78] McLeod, *Freedom of Expression (R)*, 70.

[79] Ibid., 161.

[80] Austin, “The Construction and Transformation of the American Disc Jockey Occupation, 1950-1993,” 225.

Today, DJs and live mashup artists concentrate on more than just connectivity between songs. "Out has gone the idea of *introducing* records and in has come the notion of *performing* them."[82] Bill Brewster and Frank Broughton say that "DJs track down greatness in music and squeeze it together. Like a master chef who picks just one perfect cherry from each tree to make his pie, a DJ condenses the work and talent of hundreds of musicians into a single concentrated performance."[83] DJs today take only the best, most danceable portions of songs and extend them, interpolating them with beats, chords, and vocal exclamations from other songs. In the words of Daniel Hadley, "the musical text is continually being transformed.... The music contained on any piece of vinyl is not considered to be a fixed and immutable creation, but rather raw material which must be recast through its insertion into a flow of texts which interact both with each other and with the bodies of the dancers."[84] What was once a series of unrelated songs becomes a connected "set" of songs that interact and converse with one another to form a narrative.[85] The DJ creates his own composition, in effect, out of other people's songs.[86]

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[81] Ibid., 156.

[82] Bill Brewster and Frank Broughton, *Last Night a DJ Saved My Life: The History of the Disc Jockey* (New York: Grove Press, 2000), 8.

[83] Frank Broughton and Bill Brewster, *How to DJ Right: The Art and Science of Playing Records* (New York: Grove Press, 2003), 12.

[84] Daniel Hadley, "'Ride the Rhythm': Two Approaches to DJ Practice," *Popular Music Studies* 5 (1993): 58.

[85] Brewster and Broughton, *Last Night a DJ Saved My Life*, 8.

[86] Butler, *Unlocking the Groove*, 33.

The beginnings of rap and hip hop music are very similar to the beginnings of the DJ-as-composer/performer in the disco/dance club world. S. H. Fernando quotes DJ Jazzy Jay as saying that most of the young, black, urban kids in late 1970s were sick of disco music. He says that that is why hip hop became so popular – people were craving something different.[87] In the 1970s, mobile DJs in the Bronx would play older funk and soul records. Like the disco DJs, these "street DJs" would also have two turntables, each with a copy of the same record. The DJ would extend the break section of the song by playing it on one turntable, then playing it on the other, and then back to the first, and so forth, using the same beat-matching techniques as the dance club DJ. Although the music was different, the idea was the same: to keep people dancing. DJ Kool Herc, one of the first mobile DJs to extend a break in this way, said that "On most records, people have to wait through a lot of strings and singing to get to the good part of the record. But I give it to them all up front."[88] The rapping started when the DJs began shouting "party phrases, such as 'let's jam, y'all,'" into a microphone while mixing their records.[89] Eventually the rapping and mixing became too complicated for one person to handle, DJs hired MCs to make the rhymes.[90]

Hip hop DJs began to seriously alter, or "flip" the material that they sampled. They chopped up sounds into smaller pieces and rearranged them, and they looped musical phrases.[91] As with dance club DJs, hip hop DJs, too, became involved in a creative act, composing their own tracks. The tracks that these DJs chose to sample were picked very purposefully. Referencing soul or funk songs added a certain amount of power to a track; after all, a sample retains some of its original meaning for the listener, even when it is placed in a new context. Other combinations of songs were picked simply because of their humorous juxtaposition.[92] The skills to mix together sounds from different sources were very important to a DJ's reputation. Not only did one have to be able to match beats and find records that complemented or conversed with each other, but they had to do so at a moment's notice – until the 1980s, all hip hop was mixed live, not in a studio. Early hip hop DJs like Afrika Bambaataa, Kool Herc, and Grandmaster Flash engaged in DJ battles to see who could come up with the most innovative cuts and mixes.[93] The audience judged these competitions with their reactions to the DJs' work. The stranger, more esoteric songs mixed, the better; people really appreciated the ability to mix in phrases from unusual songs and make them work in the grand scheme of things.[94] Prince Be Softly, of the group PM Dawn notes that "[s]ampling 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. I'm a songwriter just like Tracy Chapman or Eric B. and Rakim."[95]

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[87] Fernando, *New Beats, The*, 63.

[88] Quoted by Robert Ford, "B-Beats Bombarding Bronx: Mobile DJ Starts Something With Oldie R&B Disks," *Billboard*, July 1, 1978.

[89] Cheryl L. Keyes, *Rap Music and Street Consciousness* (University of Illinois Press, 2004), 1.

[90] Ibid.

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[91] Joseph G. Schloss, *Making Beats: The Art of Sample-Based Hip-Hop* (Wesleyan, 2004), 106.
[92] Vaidhyanathan, *Copyrights and Copywrongs*, 135.
[93] Hager, *Hip Hop: The Illustrated History of Breakdancing, Rap Music, and Graffiti*, 34.
[94] Demers, "Sampling as lineage in hip-hop," 28.
[95] Quoted by Rose, *Black Noise*, 79.

I have gone through this history of musical borrowing for three reasons. First, some authors use music history as party of the legal argument justifying mashups. They claim that mashups should perhaps not be an illegal art form, since there are so many other types of music rooted in the same ideas. I have traced a history of musical repurposing in order to show the similarities and differences in techniques between mashup and other genres of music. My second goal was to demystify the mashup. This "new" art form is actually not entirely new at all – it is based on techniques that have been used for hundreds of years. Even the procedures for literally sampling other music, rather than just quoting it, have their roots in hip hop production, and before that, experimental music. And third, I wanted to show the direct connections between live DJ production, sampling in hip hop, and mashups. While the other types of music I mentioned in this chapter are made in similar ways to the mashup, and have analogous effects on the listener, DJ sets and hip hop sampling can actually be said to have directly influenced mashup producers and their tracks.

Roland Barthes notes that "[a]ny text is woven entirely with citations, reference, echoes, cultural languages, which cut across it through and through in a vast stereophony."[96] It is truly impossible to produce an entirely original idea. We are bombarded with influences from the time we are born that necessarily make their mark on that which we create. Joseph Straus writes about Harold Bloom's "anxiety of influence" as it applies exclusively to the music of the twentieth century. Composers, he says, grab onto material from the past, and transform it to clear their own creative space. This transformation is what he calls "remaking the past."[97] This anxiety of influence and the renovation of previous material has always existed in poetry (the subject of Bloom's original theory) as well as in music. Mark Twain said that "The kernel, the soul – let's go further and say the substance, the bulk, the actual and valuable material of all human utterances – is plagiarism. For substantially all ideas are second-hand, consciously or unconsciously drawn from a million outside sources…."[98]

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[96] Roland Barthes, quoted by Jonathan Lethem, "The Ecstasy of Influence: A Plagiarism Mosaic," in *Sound Unbound: Sampling Digital Music and Culture*, ed. Paul D. Miller (Cambridge, MA: The MIT Press, 2008), 43.

But Straus says that this concept applies more in the twentieth century than it did before, that we are more surrounded by these anxiety-causing voices of the past now than we ever have been before. This is probably true. A variety of factors have led to our over-saturation in music of the past: historical preservation and study, globalization, the introduction of fixed media on which to preserve recordings, and the distribution power of the internet are just a few. We hear music almost everywhere we go, and almost any music we can think of is at our fingertips when we sit down at our personal computers. The disadvantage to being surrounded with so many influences is that it is illegal to make use of most of them in too obvious a way, due to copyright law.[99] This is where the fundamental disconnect lies between human nature and the law: "People are users. They are producers, storytellers, consumers, interactors – complex, varied beings, not just people who go to the store, buy a packaged good off the shelf and consume."[100] Yet, buying the package off the shelf and consuming is precisely what record companies and their lawyers are trying to force us to do. Mashups, like all of music history, are a product of influences, transformed creatively into a new product.

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[97] Joseph N. Straus, "The 'Anxiety of Influence' in Twentieth-Century Music," *The Journal of Musicology* 9, no. 4 (Fall 1991): 477.

[98] Mark Twain, quoted by Lethem, "The Ecstasy of Influence: A Plagiarism Mosaic," 43.

[99] Illegality only comes into play when a user decides to *share* a copyright-infringing creation, whether or not it is for profit. Copyright was discussed at length in Chapter 2.

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[100] Yochai Benkler, quoted by Boynton, "The Tyranny of Copyright?".

Chapter 4: Aesthetic Principles of the Mashup

> DJs track down greatness in music and squeeze it together. Like a master chef who picks just one perfect cherry from each tree to make his pie, a DJ condenses the work and talent of hundreds of musicians into a single concentrated performance. DJs bring all the right things together – that's why we love them so much.[1]
>
> As we are bombarded by popular music…[w]e can take the sounds heard around us and mold them to our own aesthetic aims. The end result may be better than that which is produced for us by capitalist culture.[2]
>
> That's the beauty of hip hop; you take the best of the best.[3]
>
> ["A Stroke of Genie-us" is] cooler and sexier and tenser than either of its sources…Each is what the other one was missing all along.[4]

Each of the above quotes reveals something about the intended aesthetic aims of the mashup. Although these authors are each talking about a different genre (live DJ sets, collage music, sample-based hip hop, and mashups, respectively), they each effectively declare the goal of the mashup, which also happens to encapsulate the aims of these other forms: to make a piece of music that is better than the sum of its parts, of its source songs. The most praised mashups are touted by journalists as being "bigger, better,…[and] stronger" than the pieces that went into their construction.[5] The idea is that a talented mashup artist can take two or more tired, clichéd pop songs and "breathe new life” into them.[6] Mashups, when done well, can make “the lesser songs of pop music … as good as the great ones.”[7]

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[1] Broughton and Brewster, *How to DJ Right*, 12.

[2] Kevin Holm-Hudson, "John Oswald's 'Rubaiyat (Elektrax)' and the Politics of Recombinant Do-Re-Mi," *Popular Music and Society* 20, no. 3 (1996): 33.

[3] Peanut Butter Wolf, in Doug Pray, *Scratch*, DVD, 2001.

[4] Douglas Wolk, "Barely Legal," *The Village Voice*, February 5, 2002, http://www.villagevoice.com/2002-02-05/music/barely-legal/ [accessed 30 April, 2011].

[5] Greenwald, "Dirty Pop."

This chapter outlines the basic aesthetic principles of the basic mashup.[8] These principles can be grouped into two broad categories: those of construction and those of meaning. The principles of construction are mainly traditional: mashup artists and fans espouse the same “classical” values of clarity, harmony, and intelligibility characteristic of the well-made popular song. The principles of meaning, by contrast, are subversive in nature: mashups offer commentary on pop culture and poke fun at and upend the meaning of the very songs used in their construction.

PRINCIPLES OF CONSTRUCTION

What makes a successful mashup? In their instructional book on DJing, Bill Brewster and Frank Broughton (both professional DJs) urge aspiring DJs to “[t]ry to create mixes that sound like something a producer or musician might have done in a studio – like the two records were recorded that way.”[9] This rule applies to mashup artists as well: the constructive principles of mashups are grounded in those of songwriting and song producing. *Get Started in Songwriting*, an instruction manual, emphasizes simplicity and clarity throughout its chapters, always with the goal of making songs appealing and marketable to a large audience. The author, Sam Inglis, is a professional songwriter, albeit not a famous one. He has, however, been able to make a living writing songs and playing with a band for almost twenty years. He advises that those using computer software to compose should make rhythmic loops fit together to ensure transparency of both rhythm and meter.[10] It is also important, Inglis says, for the lyrics to be clearly understood so that the meaning and emotion behind the song can be easily apprehended.[11] He also emphasizes the importance of a coherent formal structure in songs,[12] and keeping the arrangements controlled. Indeed, his instructions for arrangement sound very similar to those for aspiring mashup artists: "Too many things going on at once will sound like a mess."[13] The mashup community evaluates the construction of mashups along these same lines of the well-made pop song.

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[6] London DJ James Hyman, in Greenwald, “When Stars Collide.”

[7] Frere-Jones, “1 + 1 + 1 = 1: The New Math of Mashups.”

[8] I have chosen to focus on the basic mashup since it is by far the most common type of mashup, and best exemplifies the aesthetic values of the genre.

[9] Broughton and Brewster, *How to DJ Right*, 82.

The coordination of tempo is a particularly important consideration in the mashup. Tempo is so fundamental to the art that most DJs and mashup artists organize their libraries on that basis, and DJ Earworm's instructional book spends a good deal of time detailing how to make tempo adjustments between songs.[14] When the songs differ in tempo, they can be brought into accordance by slowing one down, accelerating another, or both. However, too much alteration can adversely affect the identity of the song: it can start to sound too processed and even become unrecognizable if its tempo is changed too much.[15] DJ Earworm recommends that a song's tempo not be altered more than ten percent (faster or slower); otherwise the tempo change will become quite noticeable.[16] This rule of thumb suggests that preserving the identity of the original song is an important principle because it ensures the referent remains recognizable. This principle of identity will be discussed in greater detail later in the chapter. Tempos do not need to coincide, however, in order to synchronize. In fact, it is often possible to combine songs of extremely different tempos to good effect. "Some interesting results can be achieved," says DJ Earworm, "when you combine two songs where one tempo is twice that of the other."[17] DJ Mighty Mike did just that with the song "Imagine a Jump." This mashup combines "Imagine" by John Lennon, which is around 75 beats per minute (bpm) with Van Halen's "Jump," which is originally around 130 bpm. To make these songs the same tempo would require a big adjustment for one or both songs – too big, probably, to be aesthetically pleasing. So Mighty Mike instead chose to speed up "Jump" to around 150 bpm – twice the tempo of "Imagine."[18] Example 4.1 shows an excerpt from "Imagine a Jump." The beat level in each of the source tracks is marked by "x"s. The beat level of "Jump" has been made exactly twice as fast as that of "Imagine." The tempo adjustment in the mashup results in a very clear $\frac{4}{4}$ meter, a model of popular song construction.

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[10] Sam Inglis, *Get Started in Songwriting* (Blacklick, OH: McGraw-Hill, 2007), 59.
[11] Ibid., 158.
[12] Ibid., 125.
[13] Ibid., 156.
[14] Jordan "DJ Earworm" Roseman, *Audio Mashup Construction Kit* (Indianapolis: Wiley Publishing, Inc., 2007), 82. This book is, as of writing, the only mashup instruction manual. For this reason, and because of Earworm's many successful mashups, I rely on it a great deal throughout this chapter.

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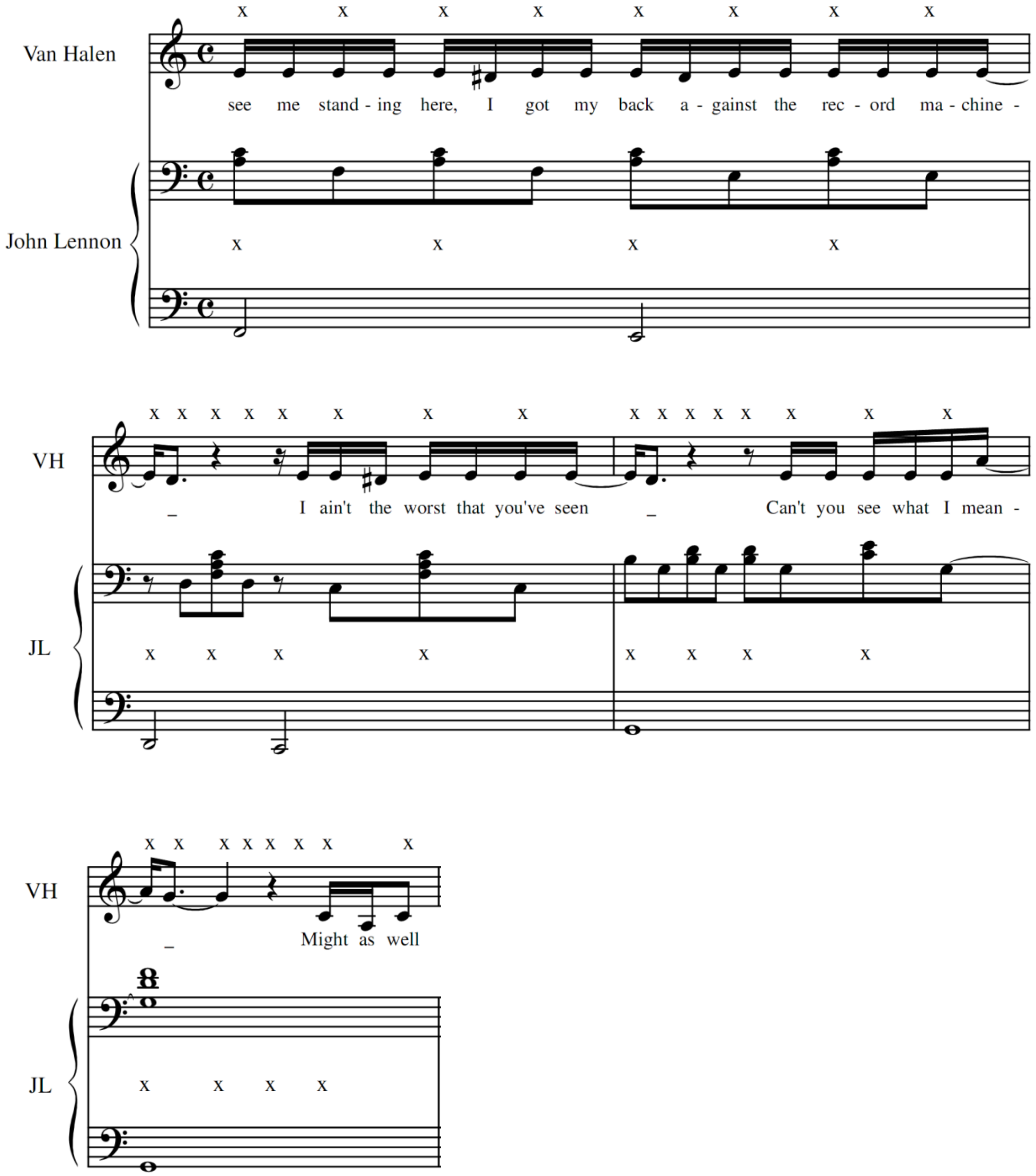
[15] McGranahan, "Mashnography," 43; Gunkel, "Rethinking the Digital Remix," 498; Roseman, *Audio Mashup Construction Kit*, 82.

[16] Roseman, *Audio Mashup Construction Kit*, 82.

[17] Ibid.

[18] The increase in tempo (15%) is a bit more than DJ Earworm recommends in his book.

Example 4.1: DJ Mighty Mike, "Imagine a Jump,"
(0:39-0:52), transcription by author


Van Halen
see me stand - ing here, I got my back a - gainst the rec - ord ma - chine -
John Lennon
VH
_ I ain't the worst that you've seen _ Can't you see what I mean -
JL
VH
_ Might as well
JL

A more complicated issue concerns relations between and among beat-level rhythmic patterns. Two songs in the same tempo may not work well when played simultaneously, due to conflict at this level. In their instruction manual for aspiring DJs, Broughton and Brewster say that in general, “rhythms mix together well when they have a similar pattern.”[19] They instruct their readers to listen for different types of drums (snares, hi-hats, etc.) occurring in the same places in different songs. Simple rules for determining what types of rhythmic patterns will go well together do not exist, they say. A DJ should listen to the way two songs sound together, and ask whether or not these two patterns make “rhythmic sense”: “Does it sound solidly danceable or just confusing?”[20] This is an interesting comparison. “Danceable” and “confusing” are not really antonyms. A very slow song could be un-danceable, for instance, but not necessarily confusing. A song with dizzying, extremely complicated interlocking rhythmic patterns, by contrast, might be eminently danceable. Better is their recognition that sometimes songs with different rhythmic patterns will work well together and form a danceable union because “their patterns are complementary – they are somehow pulling in the same direction.”[21] “Pulling in the same direction” refers to tension between syncopated rhythms. According to the authors, the main reason that two rhythms do not sound right, or sound like they are pushing against each other, when they are superimposed in a combination of what Brewster and Broughton call forward- and backward-leaning syncopations.[22] A forward-leaning syncopation is a rhythmic pattern in which a beat comes earlier than expected: the syncopation leans into the beat. A backward-leaning syncopation, by contrast, comes later than anticipated: it falls away from the beat. A simple example of each type of syncopation can be found in Examples 4.2 and 4.3. In Example 4.2, the syncopation anticipates beats two, three, and four. It is forward-leaning because it seems to attack earlier than expected – on the "and" of beats one, two, and three. In Example 4.3, however, the syncopation crosses beats two and three. It is backward-leaning because it seems to attack later than expected. The first note is held across beat two, and the next note is held across beat three. This gives the impression that beats two and three are coming later than expected.

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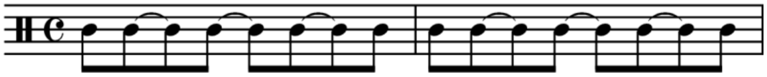
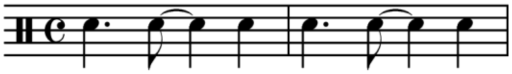
[19] Broughton and Brewster, *How to DJ Right*, 85.
[20] Ibid.
[21] Ibid.
[22] Ibid., 86.

Example 4.2: Forward-Leaning Syncopation



Example 4.3: Backward-Leaning Syncopation



However, it should be noted that even simple examples like these can be ambiguous, and open to multiple interpretations. For instance, in Example 4.3 I have interpreted the notes that come on the "and" of beat two as a "late" version of that beat. Conversely, depending on the context, they could potentially be seen as "early" versions of beat three instead. Matthew Butterfield theorizes that the "groove" in jazz, analogous to "danceability" that Brewster and Broughton discuss, results from slight asynchronous timing between instruments (most notably bass and drums).[23] Backward- and forward-leaning syncopations might be understood as similar effects, but operating at a somewhat more perceptible level than what Butterfield describes.

Although Brewster and Broughton are discussing the work of live DJs, rhythmic structure and beat-level patterning is also an important consideration to producers of mashups and sample-based hip hop.[24] As illustrated in Example 4.1, DJ Mighty Mike not only matched up the tempos of "Imagine" and "Jump," but the rhythmic and metric patterns of the songs align well. Both songs are in a simple, relatively straight-ahead quadruple meter, with the only syncopation occurring in David Lee Roth's vocal line, where he extends the penultimate note of each phrase over the next barline before resolving to the final note. DJ Mighty Mike included just the piano part of "Imagine," which gives only the slightest emphasis on the backbeats in the right hand of the piano part, and therefore offers little that could conflict with Roth's vocals.

Another basic factor mashup artists consider in constructing their works is the relationship between the keys of each source song.[25] The songs are generally expected to form a harmonious relationship. Indeed, one of the main constructive principles of the mashup is that the songs should seem to go together: just as the tempos must be synchronized, so too, the pitch materials must be evaluated for harmonic fit. As with tempo, DJ Earworm devotes a long section to describing key relationships that "sound good" when mixed together.[26] He argues the obvious point that, all things being equal, two songs will sound best when they are in the same key. Relative major/minor keys are next best, followed by parallel major/minor keys, and then fourth/fifth-related keys.[27] This order, however, is more a rule of thumb than a strict prescription, since the actual elements in the song, such a chord progressions and melodic line, determine whether a particular relationship will sound harmonious. If the songs do not work in their original keys, mashup artists can use software to transpose the music up or down. As with tempo adjustments, transposition can only be taken so far without the processing becoming noticeable and so affecting the identity of the song. DJ Faroff says that "[s]ometimes you are listening to a song and you think about another song that would work so well and then you just pray that they will be close enough keys, but if one is E and the other one is B then you are screwed."[28] Because listeners are particularly sensitive to popular singers' vocal timbres (and popular song is written to exploit the distinctive qualities of particular artists' voices), DJ Earworm argues that the actual feasible range of transposition is only

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[23] Matthew Butterfield, "Participatory Discrepancies and the Perception of Beats in Jazz," *Music Perception* 27, no. 3 (2010): 158.

[24] Schloss, *Making Beats*, 136.

[25] DJ Earworm's book contains an extensive section dedicated to helping the non-musically trained aspiring mashup artist figure out what key a song is in. (Roseman, *Audio Mashup Construction Kit*, 92-97.)

There is also software that will determine the key of a piece of music. Rapid Evolution and tONaRT are examples of such key-detection software programs.

[26] Ibid., 97-107.

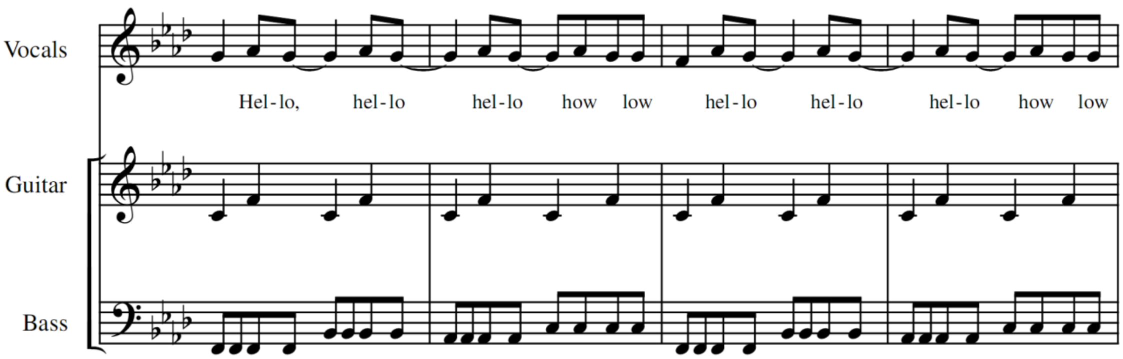
[27] Ibid., 101.

[28] Quoted in McGranahan, "Mashnography," 43.

one or two semitones.[29] Instrumentals can be transposed somewhat more freely. Because both songs can be transposed up or down, instrumentals can be transposed slightly more, and songs often combine at relative or fifth-related keys, it is often possible to find a harmonious match even with a limited interval of transposition.

Examples 4.4 through 4.6 illustrate the procedure used in DJ Mark Vidler's "Smells Like Rockin' Robin." Example 4.4 shows a section of Nirvana's "Smells Like Teen Spirit" (1991). The song is in F minor. Kurt Cobain's vocal line continually oscillates between a G and an A-flat, creating something of a drone-like effect, which is intensified by the fact that he is singing the same words over and over. The guitar repeats a two-note ostinato pattern emphasizing dominant and tonic, while the bass line provides the most varied part of the texture.

Example 4.4: Nirvana, "Smells Like Teen Spirit," (0:49-0:57), transcription by author



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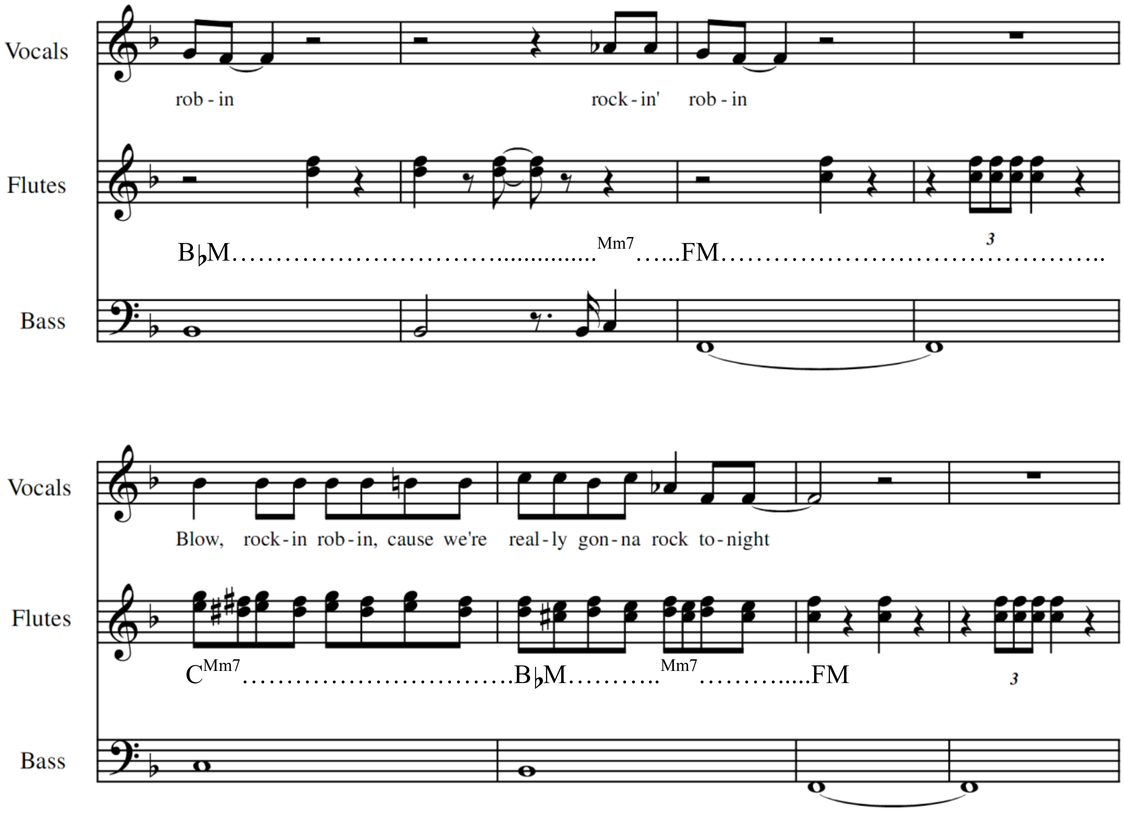
[29] Roseman, *Audio Mashup Construction Kit*, 97.

According to DJ Earworm’s key list, this song could potentially be mashed up with another song in F minor, A-flat major, F major, B-flat minor, or C minor (or a song that could easily be transposed to any of those keys). DJ Mark Vidler chose to combine “Smells Like Teen Spirit” with a song in the parallel major key: “Rockin’ Robin” by the Jackson 5. Example 4.5 shows a transcription of Michael Jackson’s vocal line, Jermaine Jackson’s bass line, the two flute parts, and the implied harmonies. Notice the similarities between the vocal line from “Rockin’ Robin” and that from “Smells Like Teen Spirit,” despite their differences in mode. In these passages, the vocal lines of Michael Jackson and Kurt Cobain both focus on the notes A-flat, G, and F.

Example 4.5: The Jackson 5, “Rockin’ Robin,” (0:22-0:32), transcription by author


Vocals
Flutes
Bass
rob - in
rock - in' rob - in
B♭M…………………………..............Mm7…...FM……………………………………..
3
Blow, rock - in rob - in, cause we're real - ly gon - na rock to - night
CMm7…………………………..B♭M………..Mm7………......FM
3

The section of “Smells Like Rockin’ Robin” combining Examples 4.4 and 4.5 is shown in Example 4.6. Vidler’s mashup includes the flute and bass parts from “Rockin’ Robin” and the vocal line from Nirvana. The most interesting thing about this particular combination of parts is the way that Kurt Cobain’s vocal line changes as it is placed over this new harmonic context. “Rockin’ Robin” is based on a blues progression, where almost all of the chords can take an added seventh, and scale degrees are often flatted as “blue notes.” What Cobain’s vocal line effectively does in the mashup is make the blues progression of “Rockin’ Robin” sound even more “bluesy” by realizing the implied sevenths and adding blue notes to the texture. For example, the A-flat in the vocal line adds a minor seventh to what was originally a B-flat major triad in the first two measures. This happens in the Jackson 5 recording too, but not until the very last beat of bar 2. In the mashup, Cobain’s vocal drone reiterates the A-flat four separate times during the first two measures. Although missing a third, the accompaniment to “Rockin’ Robin” clearly suggests an F major chord in measures 3-4 and 7-8. However, the addition of the vocal line from “Smells Like Teen Spirit” adds a blue note (A-flat) to those tonic chords. Even though the original context of Cobain’s vocal line was F minor, the pronounced A-flat serves, in this case, as an expressive alteration to the F major harmony in the accompaniment. Vidler’s combination of these two songs in parallel modes turns Kurt Cobain from an anxious grunge artist into an earthy blues singer. His melodic oscillation fits extremely well into the Jackson 5’s idiomatic blues progression, and even intensifies the “worried” feeling so common to that genre.[30]

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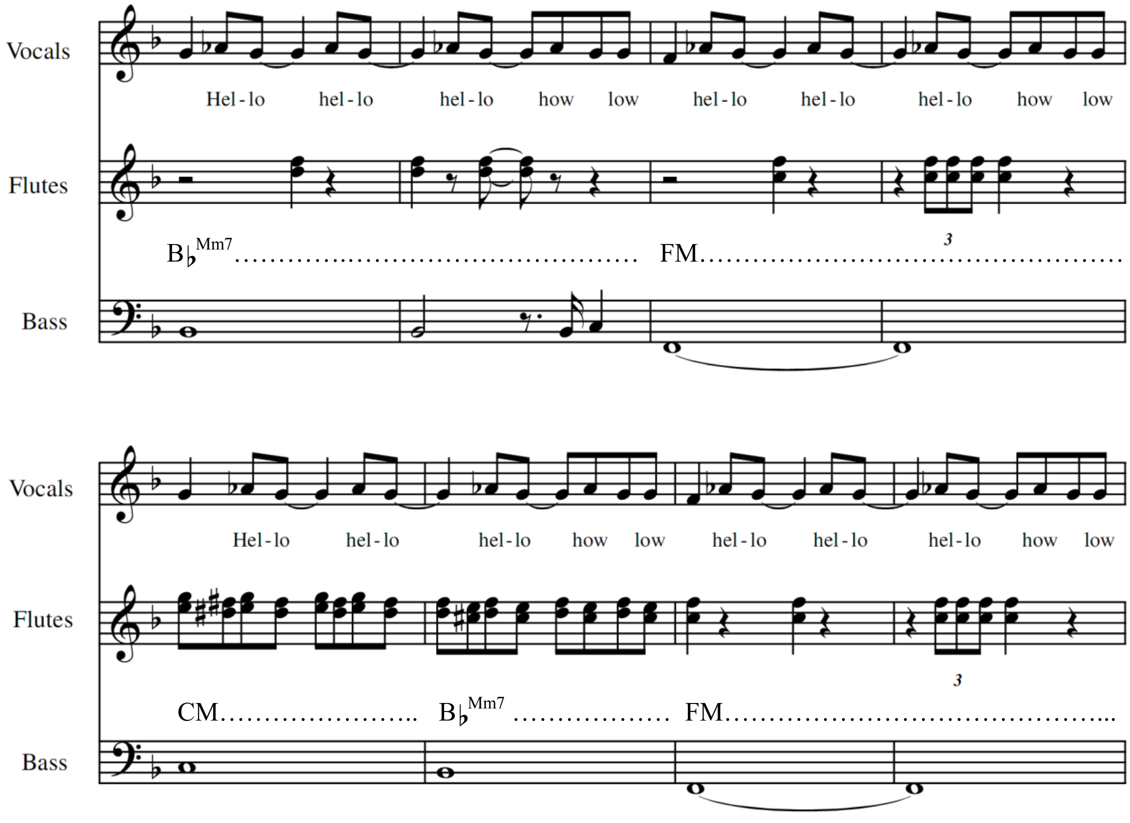
[30] For an example of a mashup that combines songs in relative keys, see Chapter 1 (DJ Freelance

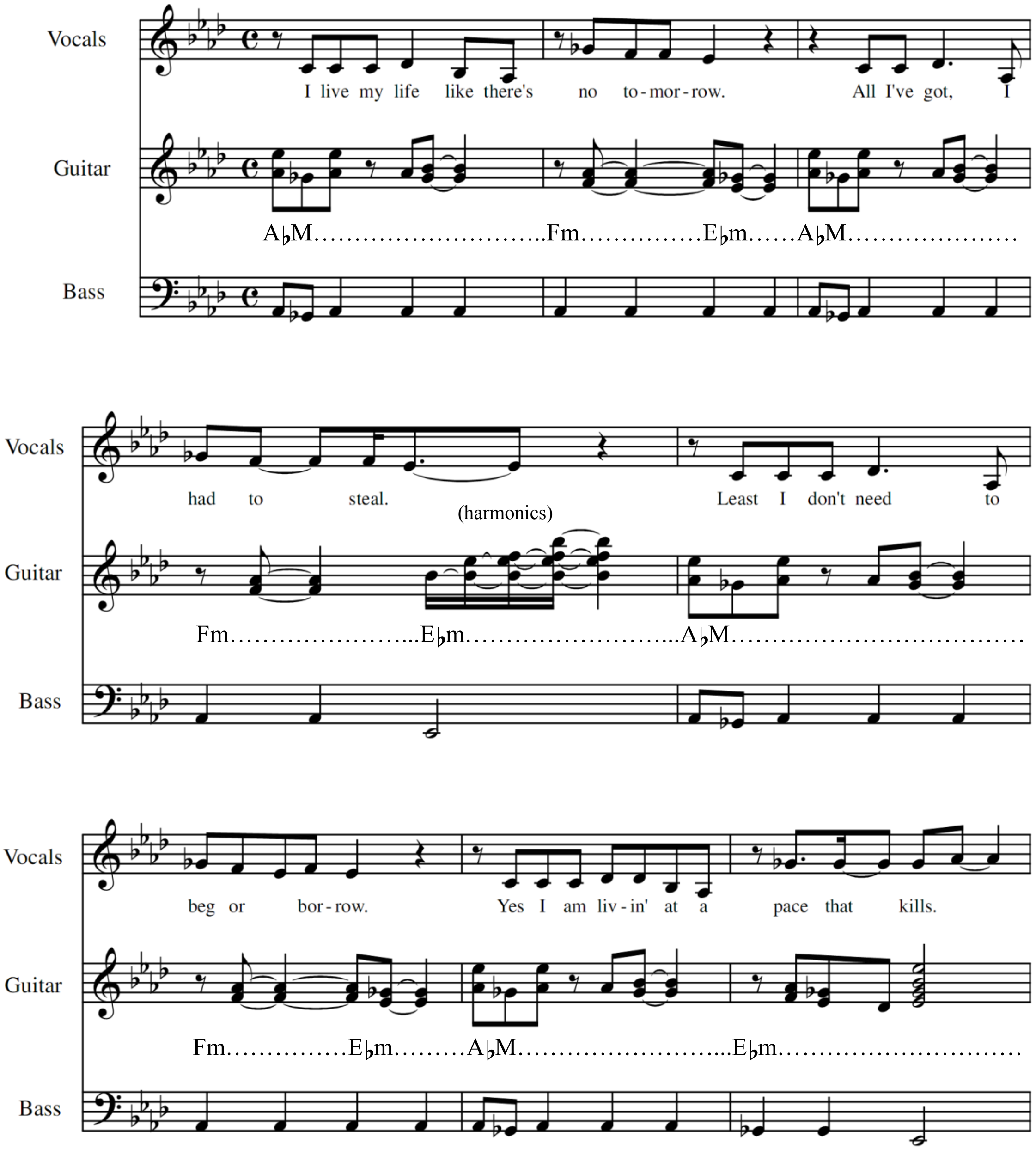
Example 4.6: Mark Vidler, "Smells Like Rockin' Robin,"
(0:21-0:32), transcription by author


Vocals
Hel-lo hel-lo hel-lo how low hel-lo hel-lo hel-lo how low
Flutes
B♭Mm7 …………………………………………… FM …………………………………………………
3
Bass
Vocals
Hel-lo hel-lo hel-lo how low hel-lo hel-lo hel-lo how low
Flutes
3
CM………………….. B♭Mm7 ……………… FM……………………………………...
Bass

YouTube user larrydavideo employs a different key relationship in his mashup "Runnin' with the Beatles." A section of one of the source songs, Van Halen's "Runnin' with the Devil," is transcribed in Example 4.7. David Lee Roth's vocals are shown, in addition to the guitar part, the bass line, and the implied harmonies.

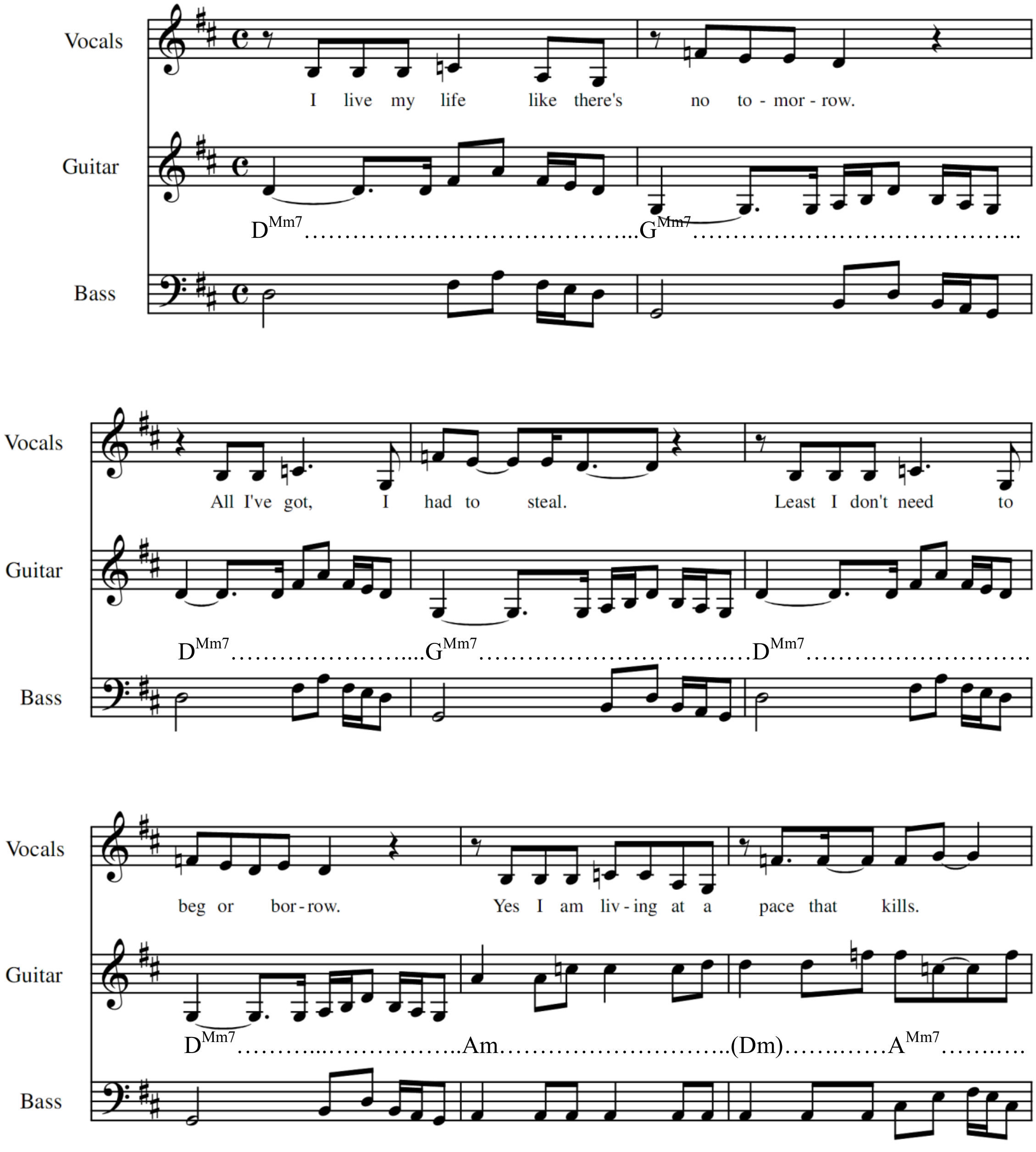
Hellraiser's "A Stroke of Genie-us").

Example 4.7: Van Halen, "Runnin' with the Devil,"
(0:39-0:59), transcription by author


Vocals
Guitar
Bass
I live my life like there's no to-mor-row. All I've got, I
A♭M………………………..Fm……………E♭m……A♭M…………………
had to steal. Least I don't need to
(harmonics)
Fm…………………...E♭m……………………...A♭M………………………………
beg or bor-row. Yes I am liv-in' at a pace that kills.
Fm……………E♭m………A♭M……………………...E♭m…………………………

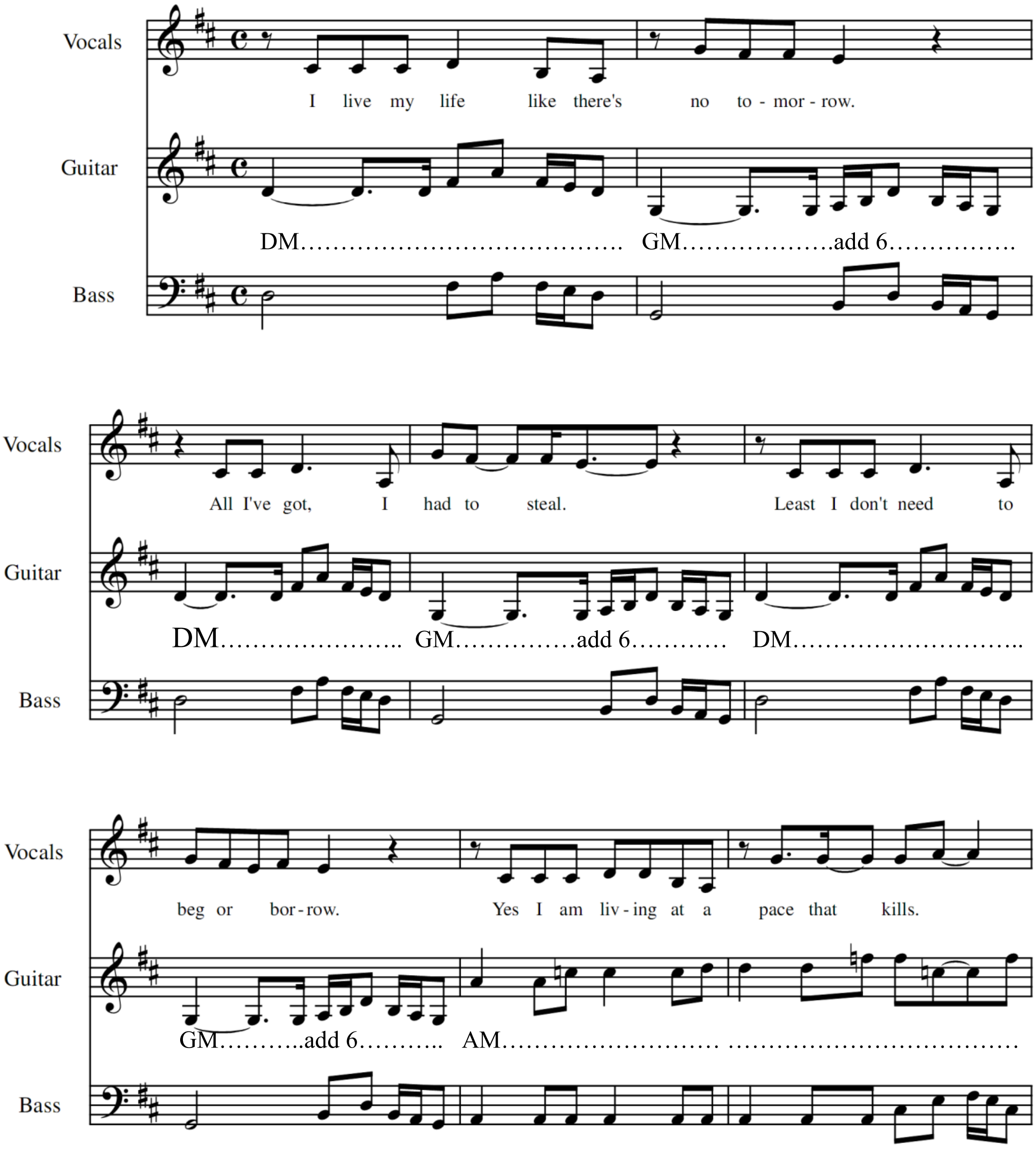
larrydavideo decided to combine this song (which is in A-flat Mixolydian) the Beatles' "Drive My Car," which is in D major. An excerpt of the resulting mashup is shown in Example 4.8. The bass and guitar lines are from "Drive My Car" and are unaltered. David Lee Roth's vocals (which were originally in A-flat Mixolydian) were transposed to bring them into a better relationship with the Beatles' music. But they were not transposed all the way to D (six half steps), which would have greatly affected the sound of his voice. Instead, larrydavideo transposed Roth's vocals down one half step, to G Mixolydian. Now the keys are a fourth apart, which can result in a compatible mashup, according to DJ Earworm and others, due to the similarities of their pitch collections.

Example 4.8: larrydavideo, "Runnin' with the Beatles,"
(0:07-0:23), transcription by author


Vocals
Guitar
Bass
I live my life like there's no to - mor - row.
D^Mm7 G^Mm7
All I've got, I had to steal. Least I don't need to
D^Mm7 G^Mm7 D^Mm7
beg or bor - row. Yes I am liv - ing at a pace that kills.
D^Mm7 Am (Dm) A^Mm7

It is worth asking why larrydavideo decided to transpose Roth's vocals to G mixolydian (which differs from D major by two pitches) rather than shift the vocal line up a half step to A mixolydian (which has exactly the same pitch collection as D major). Example 4.9 presents the same section of "Runnin' With the Beatles," but with David Lee Roth's vocal line transposed to A mixolydian.

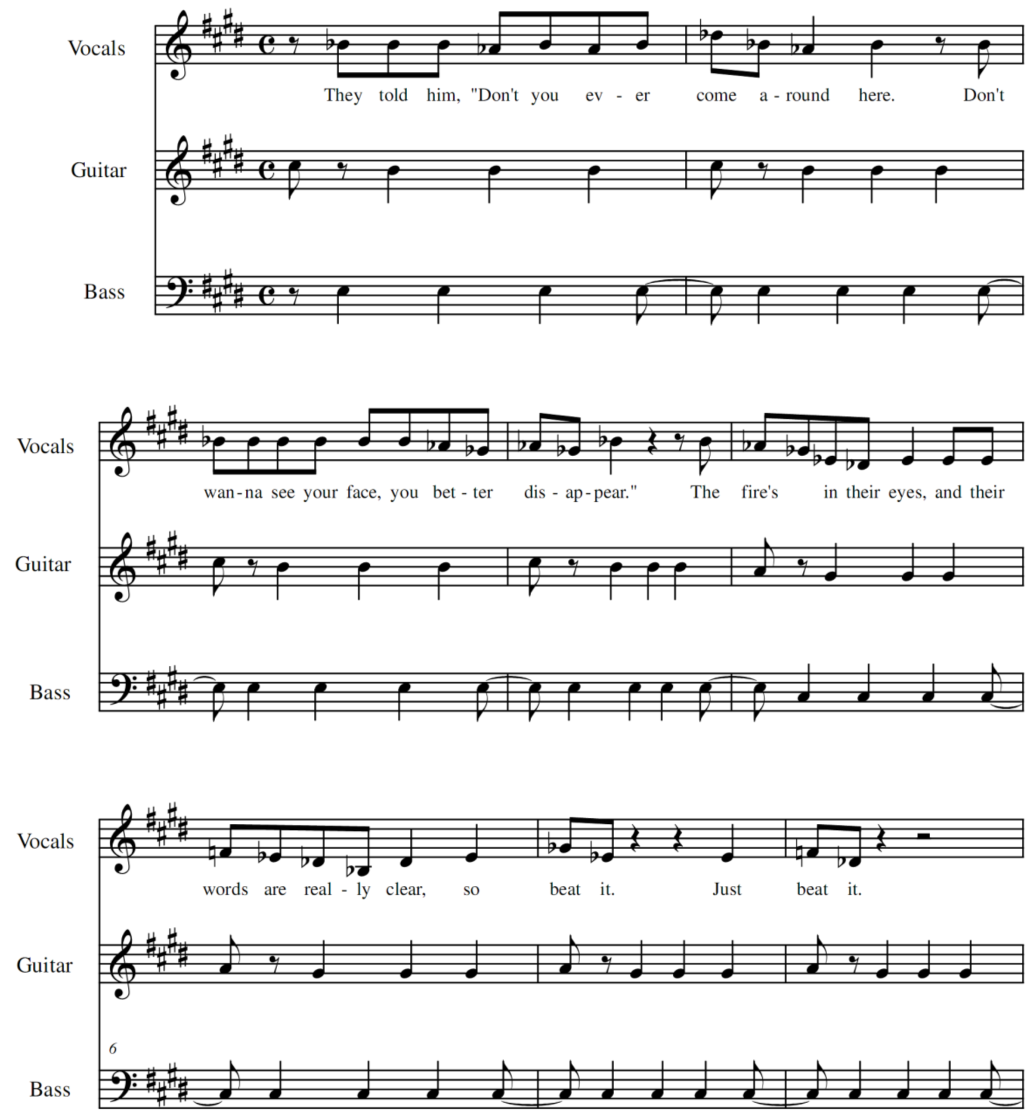
Example 4.9: larrydavideo, "Runnin' With the Beatles," (0:07-0:23), vocal line transposed by author


Vocals
Guitar
Bass
I live my life like there's no to - mor - row.
DM………………………………. GM……………….add 6…………….
All I've got, I had to steal. Least I don't need to
DM………………….. GM……………add 6………… DM………………………..
beg or bor - row. Yes I am liv - ing at a pace that kills.
GM………..add 6……….. AM……………………… ………………………………

Although A mixolydian shares more pitches with D major than G mixolydian does, the coordination of the melodic line with the harmony does not work as well. The harmonic relations in Example 4.9 are adequate, but a lot of the focal pitches in the vocal line do not fit as well with the harmonies as they do in the G mixolydian version. In measure 1, for example, the voice enters on a C#, the leading tone in the key of D, before it resolves up to tonic. In the G mixolydian version (Example 4.8), by contrast, the vocal line comes in on a B, an added sixth of the tonic triad, before rising to a C-natural, turning the D major chord into a dominant seventh (yet another idiomatic blues chord). Transposing Roth's vocals to G mixolydian generally makes for a better fit with the Beatles' music, even though that scale has fewer tones in common with D major. In the Beatles' original setting, the vocal line tended to emphasize the roots and thirds of each chord, but in larrydavideo's mashup, it behaves completely differently. A lot of the melody notes – the C- and F- naturals, as well as the G in the last bar – end up adding minor sevenths to the original chords in "Drive My Car." larrydavideo's construction of this mashup adds an important caveat to the rule about keys and mashups: the most obvious answer is not always the best. Brewster and Broughton as well as DJ Earworm all suggest a highly empirical approach: playing around with different combinations to see which work best together. They advocate trying to find a combination that makes the mashup sound like a song that could have been that way all along.

The concept of a "key clash" illustrates, in negative form, the importance of harmony to the aesthetic principles of construction. YouTube user gavsmith1980 made a mashup with a prominent key clash and then added some text to a video to demonstrate the concept.[31] A section of that mashup is shown in Example 4.10. The vocals are from Michael Jackson's "Beat It," and the instrumentals are from Kings of Leon's "Sex on Fire."

Example 4.10: gavsmith1980, "Michael Jackson vs. Kings of Leon,"
(0:27-0:37), transcription by author


Vocals
Guitar
Bass
They told him, "Don't you ev - er come a - round here. Don't
wan-na see your face, you bet - ter dis - ap - pear." The fire's in their eyes, and their
words are real - ly clear, so beat it. Just beat it.
6

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[31] http://www.youtube.com/watch?v=cjqhdRZh7TI [accessed 30 April, 2011]

Many mashups are distributed on YouTube, and the videos often follow the idea of the music in editing together shots drawn from the music videos of the original songs. gavsmith1980 proceeds differently. Instead of showing footage of Michael Jackson and Kings of Leon, he fills the screen with text that offers commentary on the constructive principles of a "good" mashup. In this way, he has in effect produced an instructional video. After the mashup begins, he writes, "many of you will think; yeah that sounds tight & well made. and rhythmically you'd be correct, same tempo & synchronised. Actually anyone with tone perception will tell you this is HORRIBLE…the two tracks being mashed are in different keys, and are unharmonious [sic]." The result is less inharmonious than might be expected from gavsmith1980's text, but it does sound oddly alienating, as if the songs are playing in separate rooms. This is because the pitches from "Beat It" do not fit tightly into the harmonies of "Sex on Fire." But the two songs do not sound like they are actively combating each other. Rather than being a "clash," where the tones seem to attack one another, there they simply seem to move with indifference toward each other. Nevertheless, gavsmith1980's comment, "this is HORRIBLE," is deeply revealing about the underlying principles of the mashup aesthetic: evidently, such tonal indifference is not valorized. At the level of harmonic relationships, mashups are evaluated like any other pop song, where the music should seem like it belongs together and is seeking a common tonal goal. In any case, gavsmith1980 clearly places a high value on the clarity of harmony, something emphasized by DJ Earworm's manual as well.

Most mashup artists work hard to avoid key clashes, even those of the sort that merely project indifference as in the case of "Michael Jackson vs. Kings of Leon." But the difficulty of knowing when something is working and when it is not is evidently not always easy to judge. DJs Adrian and Mysterious D, for instance, attempted to create a mashup between the Killers and Kiss called "Somebody Kissed Me." In fact, they went so far as to release it on the internet for a week, but they soon withdrew it when it was harshly criticized for poor technique. Now they refer to it between themselves as "Somebody Key-Clashed Me."[32] According to DJ Adrian, the problem was that certain parts of the songs pushed too far in different directions, but the DJs nevertheless "forced" (Adrian's word) the songs together in the hopes that the clashes could slip by, since the songs otherwise worked so well together. He describes the situation: "[I]t is really frustrating to have something that works like seventy percent of the time and you just want to release it because those parts that work are so great, but it just falls apart in the chorus or it falls apart in the bridge. That was one thing that we learned, that self-editing is really important."[33] This quote reveals that great moments are not enough to make a successful mashup. It must work as a successful song for the duration of the entire mashup.

One mashup artist infamous for producing key clashes is headphoneboy, who posts frequently on Get Your Bootleg On (GYBO), a website devoted to distributing and discussing mashups.[34] To call someone "headphoneboy" has even become something of an insult on the website. A typical example of his mashup technique is shown in Example 4.11.

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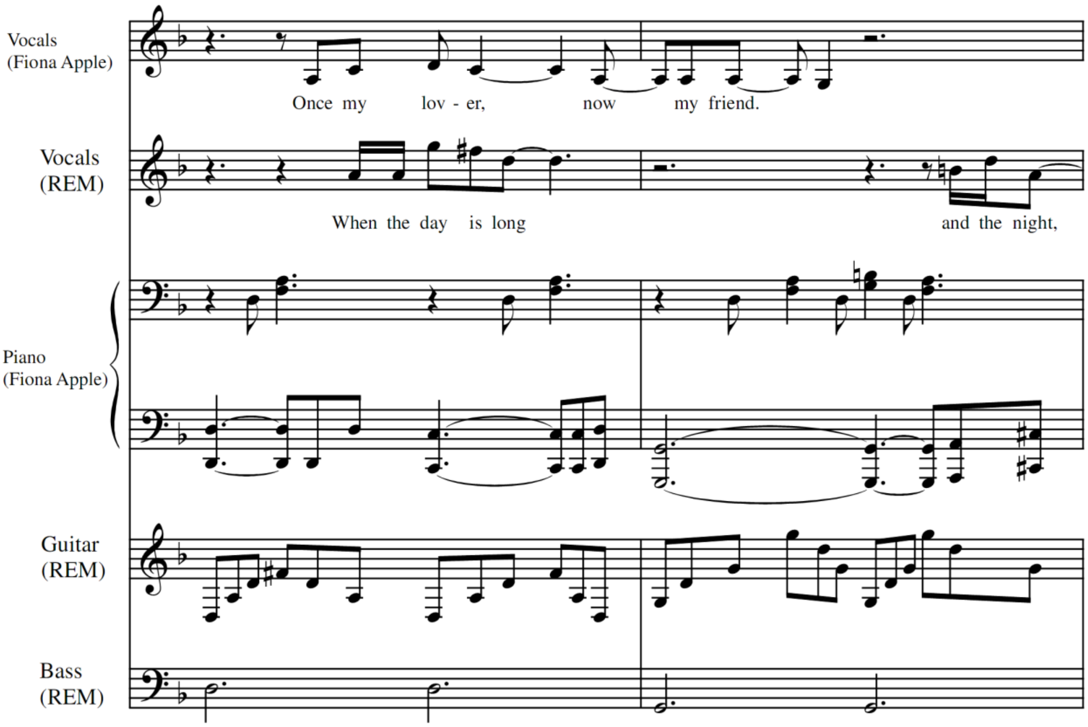
[32] McGranahan, "Mashnography," 43-44. (I have tried unsuccessfully to locate a recording of the track in question, but it seems as though Adrian and Mysterious D have effectively erased all traces of it.

[33] Ibid., 44.

Example 4.11: headphoneboy, "Don't Throw Your Hands,"
(0:14-0:27), transcription by author



Vocals (Fiona Apple)
Once my lov - er, now my friend.
Vocals (REM)
When the day is long and the night,
Piano (Fiona Apple)
Guitar (REM)
Bass (REM)

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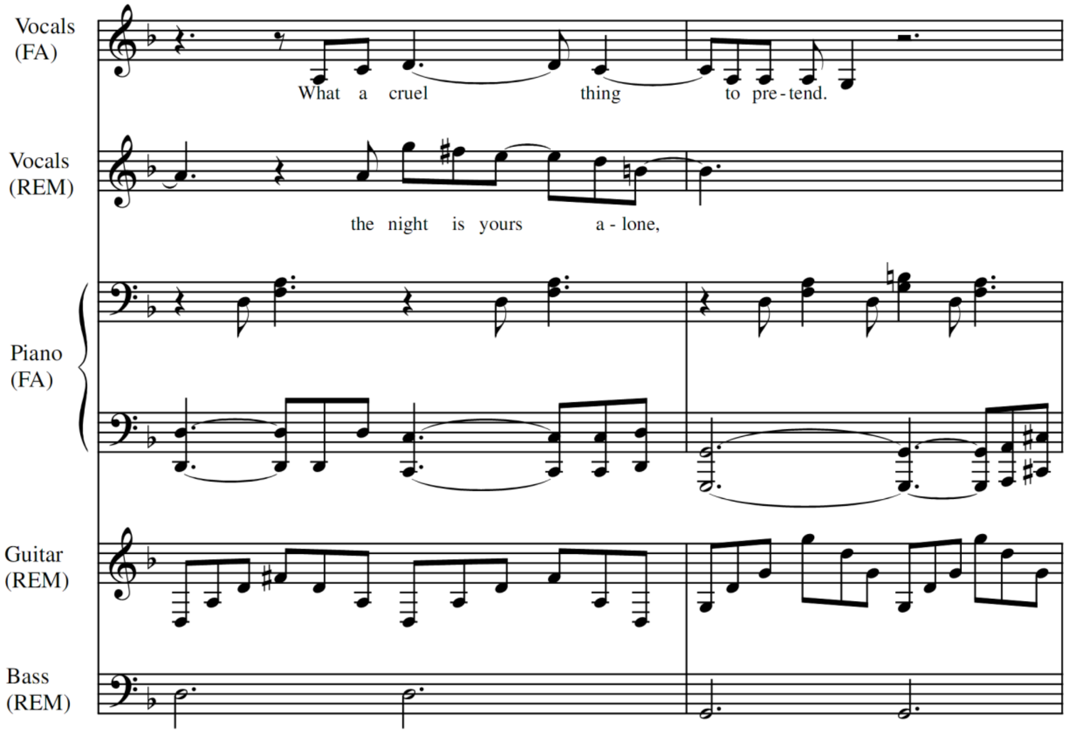
[34] www.gybo5.com/ [accessed 30 April, 2011]


Vocals (FA)
What a cruel thing to pre-tend.
Vocals (REM)
the night is yours a - lone,
Piano (FA)
Guitar (REM)
Bass (REM)

“Don’t Throw Your Hands” is made up of Fiona Apple’s “Shadowboxer” (in D minor) and REM’s “Everybody Hurts” (in D major). As “Smells Like Rockin’ Robin” demonstrates, songs in parallel modes often sound good when mashed together. But “Don’t Throw Your Hands” exhibits egregious clashes – much more than does gavsmith1980’s mashup, which was constructed to illustrate the principle. A main factor in the clash of “Don’t Throw Your Hands” lies in the relative tuning of the two songs, rather than the notes shown in the transcription. In particular, Fiona Apple’s tuning is slightly flatter than REM’s, and headphoneboy did not adjust the tuning in the mashup. Consequently, the two recordings are quite literally out of tune with each other and this lack of tuning accounts for a good deal of the key clash. People discuss headphoneboy in the GYBO forums quite a bit, and some, like bbodfjaiso11, even try to give him advice: "headphoneboy, i think before you throw two tunes together that dont fit, you have to know the process of making them fit, why they fit, how they fit, when they fit, to the very finest detail, as well as how to do this, and how not to do this…[sic]"[35] headphoneboy, however, seems indifferent to such advice. He is very prolific, with over 500 mashups posted on his webpage,[36] and all of them follow constructive principles at odds with the canons of the well-constructed song.

Along with embracing key clashing, headphoneboy also disregards the principle of song construction regulating lyrical interaction. Just as beats should synchronize and tonal materials should harmonize, mixing in a mashup follows the rule that lyrics should always be clearly intelligible. This means that lead vocalists should almost never sing at the same time.[37] As Example 4.11 shows, "Don't Throw Your Hands" runs contrary to this principle, featuring frequent overlaps of vocal lines that make it difficult to understand the lyrics of either singer. headphoneboy has essentially created his mashup by laying one song on top of the other.

An instance of voices being treated in accordance with lyrical clarity is shown in Example 4.12.

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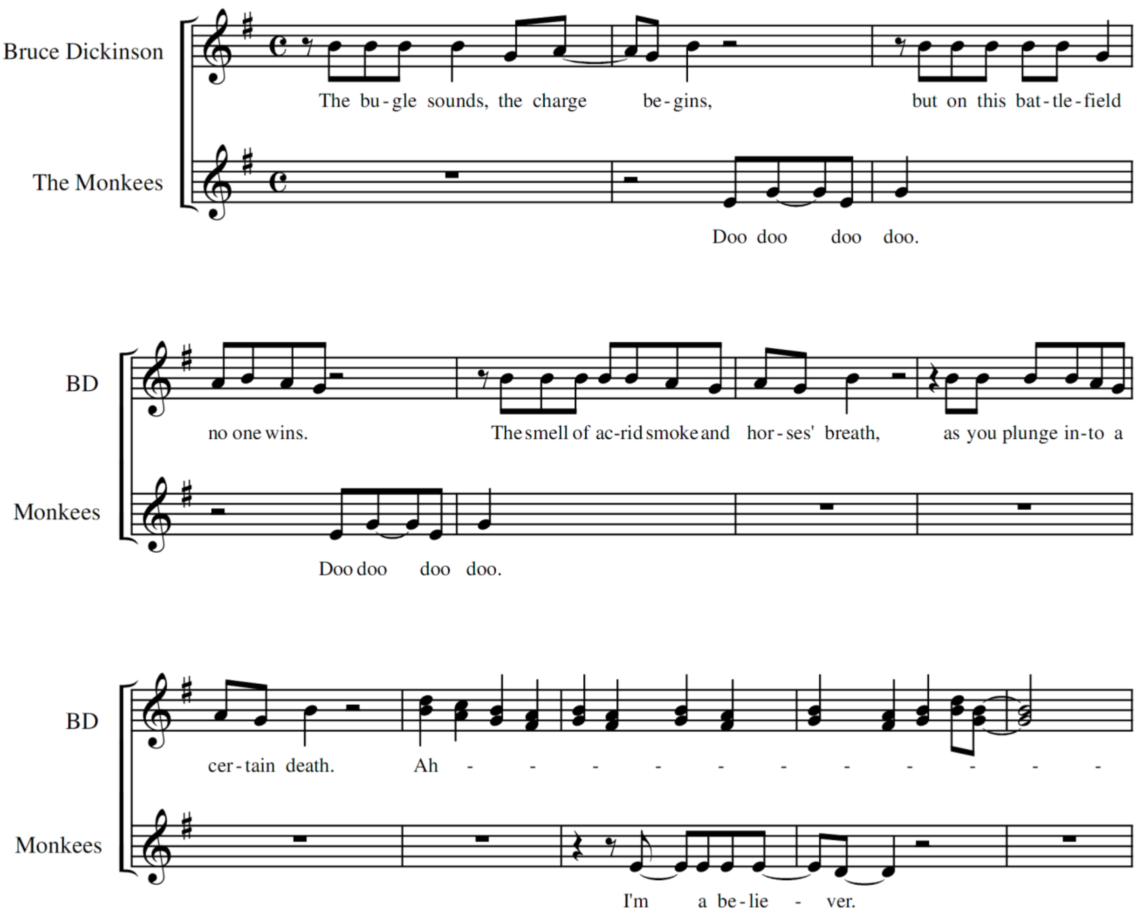
[35] http://www.gybo5.com/viewtopic.php?f=10&t=3477&p=32791&hilit=headphoneboy#p32791 [accessed 30 April, 2011]

[36] http://www.man-likemachines.com/mashups.html [accessed 30 April, 2011]

[37] Roseman, *Audio Mashup Construction Kit*, 225.

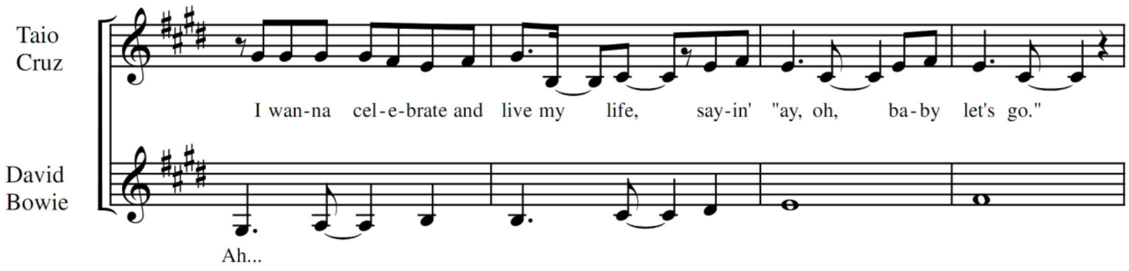
Example 4.12: DJ Schmolli, "The Trooper Believer,"
vocals, (0:16-0:34), transcription by author


Bruce Dickinson
The Monkees
The bu-gle sounds, the charge be-gins,
but on this bat-tle-field
Doo doo doo doo.
BD
Monkees
no one wins.
The smell of ac-rid smoke and hor-ses' breath,
as you plunge in-to a
Doo doo doo doo.
cer-tain death.
Ah - - - - - - - - - - -
I'm a be-lie - ver.

"The Trooper Believer" is a combination of "The Trooper" by Iron Maiden (sung by Bruce Dickinson) and "I'm a Believer" by the Monkees. Example 4.12 shows the two vocals lines. Notice that rather than singing at the same time first, Dickinson delivers a phrase and then the Monkees interject after every phrase with "Doo doo doo doo" in response. The Monkees respond with the words "I'm a believer" only when Dickinson (who is double-tracked to sing harmony with himself on the recording) sings a meaningless “ah.” DJ Schmolli also pulls back the volume of Dickinson’s “ahs” when the Monkees come in so as not to cover up the words.

Example 4.13 shows another example of noncompeting vocals lines. In this mashup, David Bowie’s backup vocals from “Under Pressure,” a collaboration with Queen, support Taio Cruz’s lead vocal from “Dynamite.” Throughout, Tripp never allows Bowie or Freddie Mercury to sing text when Taio Cruz is singing. Instead, he skillfully layers the vocals so that only one of the groups is ever singing words.

Example 4.13, DJ Tripp, “Dynamite Pressure,”
vocals, (1:40-1:46), transcription by author


Taio Cruz
I wan-na cel-e-brate and live my life, say-in' "ay, oh, ba-by let's go."
David Bowie
Ah...

Following the familiar pop song formulas, especially verse-chorus structure, is also important to mashups. Remember Brewster and Broughton’s advice that a DJ set (or a mashup) should sound like it was produced in a studio by a professional.[38] DJ Earworm likewise emphasizes the necessity of a coherent formal structure in mashups:

> Without structure, your mashup may sound good at any given moment, but it will not have a satisfying sense of pacing. By paying attention to structure, you will impart a sense of drama to your mashup and introduce

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[38] Broughton and Brewster, *How to DJ Right*, 82.

> musical elements to the listener at a digestible pace, with a comfortable balance between repetition and novelty.[39]

In his ethnography of mashup culture, McGranahan notes that mashups that do not follow traditional song forms "are generally met with criticism within the mashup community."[40]

Demarcations such as verse, chorus, and bridge, serve to separate the mashup into parts, just like in a typical pop song.[41] Figure 4.1 shows the structure of a typical contemporary pop song, "Careless Whisper" by George Michael.

Figure 4.1: George Michael, "Careless Whisper," Formal Structure

Time	Formal Section	Music/Vocals	Bars
0:00-0:27	Intro	Instrumental (sax)	8
0:27-0:52	Verse	Vocals	8
0:52-1:17	Chorus	Vocals	8
1:17-1:30	Break	Instrumental (guitar)	4
1:30-1:55	Verse	Vocals	8
1:55-2:20	Chorus	Vocals	8
2:20-2:45	Break	Instrumental (sax)	8
2:45-3:11	Bridge	Vocals	8
3:11-3:36	Chorus	Vocals	8
3:36-3:49	Break	Instrumental (sax)	4
3:49-5:03	Outro	Instrumental + intermittent vocals	24

The song's formal sections are shown, along with the instrumentation, number of bars, and timing of the recording. "Careless Whisper" is in a typical version of contemporary verse-chorus structure. The vocals clearly dominate the song's structure, but two consecutive sections of singing are always broken up by an instrumental break. A bridge occurs near the end of the song, and the song is bookended by an intro and an outro. The structure of another pop song, "Dead or Alive" by Bon Jovi, can be seen in Figure 4.2.

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[39] Roseman, *Audio Mashup Construction Kit*, 226.

[40] McGranahan, "Mashnography," 46.

[41] Ibid., 45; Broughton and Brewster, *How to DJ Right*, 82; Roseman, *Audio Mashup Construction Kit*, 199.

Figure 4.2: Bon Jovi, "Dead or Alive," Formal Structure

Time	Formal Section	Music/Vocals	Bars
0:00-0:20	Fade-in	Noise/Instrumental	0
0:20-0:47	Intro	Instrumental (guitar)	8
0:47-1:12	Verse	Vocals	8
1:12-1:32	Chorus	Vocals	6
1:32-1:44	Break	Instrumental (guitar)	4
1:44-2:10	Verse	Vocals	8
2:10-2:30	Chorus	Vocals	6
2:30-2:43	Break	Instrumental (guitar)	4
2:43-3:09	Solo	Guitar	8
3:09-3:22	Chorus	Vocals	4 ½
3:22-3:48	Verse	Vocals	8
3:48-4:40	Chorus	Vocals	16
4:40-5:06	Outro	Instrumentals (guitar)	4

The structure to "Dead or Alive" is fairly similar to that of "Careless Whisper." Bon Jovi's song also begins with an intro (after a noisy fade-in section) and closes with an outro. It also follows verse-chorus format, and the vocal sections are broken up by instrumental breaks and solos. "Dead or Alive" does not include a bridge. Figure 4.3 shows the formal structure of a mashup that combines these two songs, "Careless or Dead" by the Kleptones. Jon Bon Jovi does most of the singing, whereas the accompanying music comes exclusively from George Michael's track (although specifics about music and vocals can be found in Figure 4.3). "Careless or Dead" follows the underlying verse-chorus format shared by its source songs, and like "Dead or Alive," it does not include a bridge.

Figure 4.3: The Kleptones, "Careless or Dead," Formal Structure

Time	Formal Section	Music/Vocals	Number of Bars
0:00-0:26	Intro	Music – GM (sax)	8
0:26-0:50	Verse	Music – GM Vocals – BJ	8
0:50-1:16	Chorus	Music – GM Vocals – BJ	8
1:16-1:29	Instrumental break	Music – GM Backup vocals – GM	4
1:29-1:53	Verse	Music – GM Vocals – BJ	8
1:53-2:18	Chorus	Music – GM Vocals – BJ	8
2:18-2:44	Instrumental break	Music – GM Interjections – BJ	8
2:44-2:57	Chorus	Music – GM Vocals – BJ	4
2:57-3:22	Verse	Music – GM Vocals – BJ	8
3:22-3:47	Chorus	Music – GM Vocals – BJ	8
3:47-4:18	Outro	Music – GM Vocals – BJ	8

The formal constructive principles guiding the dominant mashup aesthetic – characteristics of tempo, rhythm, key, word comprehension, and arrangement/formal structure – are those drawn from the canons of songwriting technique. This allows mashups to appear as proper songs in their own right and so leave the impression that the songs were, in a sense, meant to be mashed. As Sasha Frere-Jones argues, an effective mashup leaves you unable to "imagine why the song didn't always do that."[42]

PRINCIPLES OF MEANING

The mashup follows traditional constructive principles for songs in order to better set off subversive meanings. Although structurally similar to mainstream pop songs, mashups relish giving meaning ironic twists. The underlying aesthetic principles governing meaning favor mixing "two seemingly disparate songs … the more odd pairing the better."[43] People "[judge] the quality of a song in part by the producer's cleverness or audacity at bringing different elements together."[44] If the concept of "clash" carries a negative charge when it appears under the basic constructive principles, that same concept is valorized at the level of meaning, especially with respect to genre. It is instructive that the mashup community employs the term "clash" for both genre and key, yet in one case embraces its effect but in the other case rejects it. Whereas a key clash mixes tones that result in harmonic confusion, a genre clash mixes meanings and allows something new and unexpected to emerge. One aspect that traditional constructive principles contribute to this mixing of meaning is therefore to place the mashup under the sign of integration: despite the disparity between the source songs, they nevertheless appear to go together. The meaning that emerges is therefore all the more powerful for the adherence to the constructive principles. “The more disparate the genre-blending is, the better; the best mash-ups blend punk with funk or Top 40 with heavy metal, boosting the tension between slick and raw.”[45] “Slick,” as it is used here, is perhaps best represented by dance music or boy-band pop. Such music makes overt, albeit sometimes ironic appeals to its commerciality, often being musically dressed up, or “overly-produced.” This contrasts with “raw,” what could be used to describe either punk or grunge – something produced without a lot of sound-editing, or even musical skill. Consequently, mashing up, say, Lady Gaga with Ke$ha would almost certainly not be as valued as mixing Lady Gaga with Nirvana, since the former case combines two artists that fall on the “slick” side of the dichotomy, whereas the latter case juxtaposes slick with raw. The subversion of meaning depends on bringing disparate songs together so that they can reveal unexpected points of contact. “It’s about picking up on the similarities between two tracks, and tweaking the songs to have them create more than the sum of their parts.”[46] Two songs from similar genres usually have obvious lines along which they interact, and the similarities that emerge are therefore rarely surprising: we fully expect that Lady Gaga and Ke$ha are singing about similar worlds. Lady Gaga and Nirvana, on the contrary, seem to occupy distinct musical universes. Therefore mashing Lady Gaga with Nirvana would reveal hidden points of commonality between the artists.

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[42] Frere-Jones, "1 + 1 + 1 = 1: The New Math of Mashups."

[43] Mudhar, "Five Years After the Genie-us, Mashups May Go Mainstream."

[44] Everett-Green, "The Rise of the Song."

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[45] Cruger, “The Mash-Up Revolution.”

[46] Tossell, “Mashup Bash is a Star On-Line.”

Sasha Frere-Jones explains the way DJ Freelance Hellraiser's track "A Stroke of Genie-us" (Christina Aguilera vs. the Strokes) combines two very different styles and discovers a new significance in the amalgamation of the two songs:

> Aguilera's vocal is an unabashedly expressive ode to her sexuality and her control over it…. The Strokes' track is compressed and jittery, as if made by hipster robots…. Each song targets a demographic that wants nothing to do with the other … but Hellraiser brokers an amazing musical détente between the two styles. Stripped of "Genie in a Bottle"'s electronic beats, Aguilera's sex-kitten pose dissipates, and she becomes vulnerable, even desperate.[47]

When Dave Grohl, the drummer from Nirvana, first heard DJ Soulwax's mashup "Smells Like Teen Booty," he complained that "[i]t sounds like a fucking mess."[48] "Smells Like Teen Booty" mixes Nirvana's "Smells Like Teen Spirit" with "Bootylicious" by Destiny's Child. Michael Serazio sums up the situation quite well:

> The irony of ["Smells Like Teen Booty"] (its widely cited greatest strength) subverts what had been Cobain's genuine lament; it undermines author intent and erases originally coded meanings and readings…. What perhaps irks Grohl is that 'Teen Spirit' has been stripped of its suicidal self-seriousness and Nirvana's sound is now enmeshed with precisely the sort of glossy pop that the band so despised. This, many argue is precisely the point: to deconstruct (and mock) the arbitrarily divided and cherished pop canon.[49]

When mashups include disparate songs, they have the potential to radically subvert and rewrite the original values, even flipping around meanings like this.

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[47] Frere-Jones, "1 + 1 + 1 = 1: The New Math of Mashups."

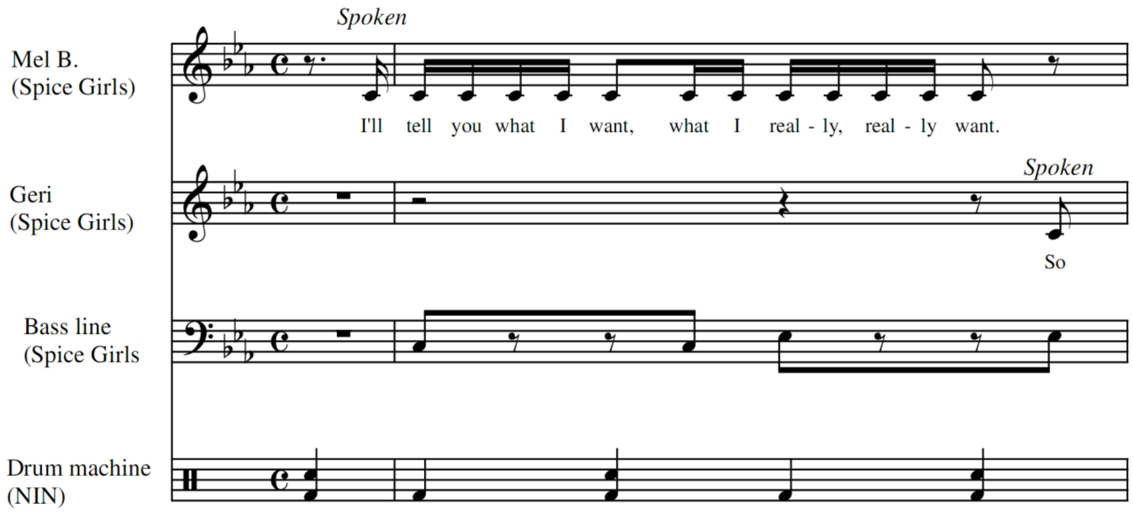
[48] Quoted in Moss, "Tech-Savvy DJs Have Destiny's Child Singing With Nirvana."

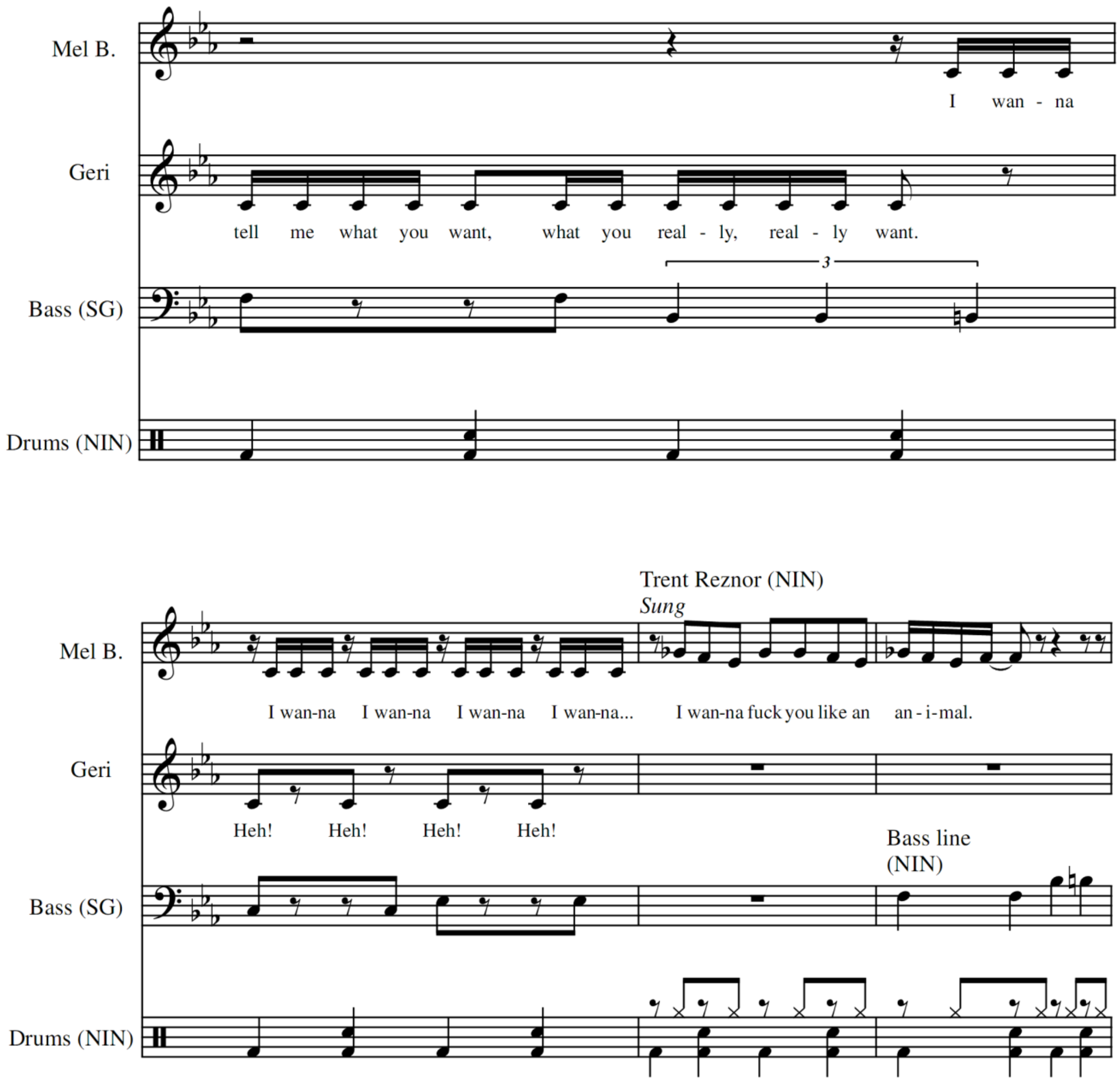
[49] Michael Serazio, "The Apolitical Irony of Generation Mash-Up: A Cultural Case Study in Popular Music," *Popular Music and Society* 31, no. 1 (2008): 83.

Meaning is also subverted when songs provide surprising commentary on each other either by providing a new context to understand one song's statements or by alternating in call and response, where one song gives an unexpected answer to another. For example, Beyoncé's "Single Ladies (Put a Ring On It)" seemingly has little in common with the whistled theme song from "The Andy Griffith Show." One is a sexy dance anthem; the other was used to introduce a wholesome 1960s sitcom about life in small-town America. They do, however, share a harmonic similarity, which Party Ben exploits in his "Single Ladies in Mayberry." This mashup plucks Beyoncé out of her usual urban dance environment and places her instead in the apparent innocence of rural Mayberry, seemingly singing to Andy Griffith or Barney Fife. In the mashup, Beyoncé's original message remains: she is a proud, unattached woman. If her boyfriend wanted to keep her, he should have proposed to her. But the meaning is also changed through the recontextualization of the mashup. Transported to a very foreign locale, this tough, urban woman now seems overly brash against the old-timey, rural atmosphere evoked by the "Andy Griffith" theme. In this case, "Single Ladies" is definitely the "slick" element of the mashup. It has obviously been produced in a studio – Beyoncé's voice has been tracked a number of times to enable her to sing her own backup vocals. There are also noticeable echo effects, and the instrumentation is almost all synthesized sound. The "raw" element is the unprocessed whistling with its simple guitar and drum background. In addition to the oppositions of female/male and rural/urban, that of black/white also becomes very apparent in this mashup, especially given the usual absence of any people of color on "The Andy Griffith Show." Beyoncé is out of place in every way. This becomes quite disturbing – “The Andy Griffith Show” was about wholesomeness, which was defined by white people in the 1960s. The opposite of wholesomeness, then, becomes projected onto Beyoncé, her blackness, and her urbanness.

A good instance of a mashup that uses a call and response between songs to produce unexpected meaning is shown in Example 4.14, “Closer to Spice,” an anonymous mashup.

Example 4.14: “Closer to Spice,” (0:08-0:18)


Spoken
Mel B.
(Spice Girls)
I'll tell you what I want, what I real - ly, real - ly want.
Geri
(Spice Girls)
Spoken
So
Bass line
(Spice Girls
Drum machine
(NIN)


Mel B.
Geri
Bass (SG)
Drums (NIN)
I wan - na
tell me what you want, what you real - ly, real - ly want.
3
Trent Reznor (NIN)
Sung
I wan-na I wan-na I wan-na I wan-na...
I wan-na fuck you like an an - i - mal.
Heh! Heh! Heh! Heh!
Bass line (NIN)

Mel B. and Geri, two of the Spice Girls, begin their song “Wannabe,” when they are rudely interrupted by Trent Reznor, of Nine Inch Nails. The juxtaposition, not just musically, but conversationally, makes for quite a confrontation. The lyrics of the Spice Girls are coy. It is somewhat ambiguous what it is that they “really, really want,” because they never quite say it. Although it can be easily interpreted as a double entendre, the media image of the Spice Girls is basically that of "nice" girls, and their music was marketed to a pre-teen audience. But Trent Reznor is not so nice, and definitely is not being coy. He screams out what *he* really, really wants, crudely unmasking the double entendre. In this way, Reznor seems to invade the Spice Girls' musical space and appropriate their unspoken desire for himself. The result? YouTube user seafoodcannibal declares, "It's frigging hilarious!"

Moments when singers from different groups seem to respond to one another in this way are particularly prized because they inevitably reveal unexpected possibilities of the song even as they also contribute to the impression of the integration of the two songs. DJ Earworm lauds such moments: "If you are using vocal elements from more than one song, and if the words relate to each other, it can be wonderful."[50] Indeed, many of the mashups included on the Best of Bootie collections feature this technique. For instance, "Ice Ice Tik Tok" by the Face Melters appeared on "Best of Bootie 2010." This mashup combines Vanilla Ice's "Ice Ice Baby" and Ke$ha's "Tik Tok," and features contradicting instructions from the vocalists. Ke$ha repeats the words "Don't stop," a few times before Vanilla Ice breaks in with, "Alright, stop!" Another "Best of Bootie" compilation from 2006 includes a track called "Crazy Logic" by Arty Fufkin,[51] made up of Supertramp's "Logical" and Gnarls Barkley's "Crazy." Example 4.15 illustrates that the two artists are not so much arguing with each other as supporting each other's statements as if in a conversation.

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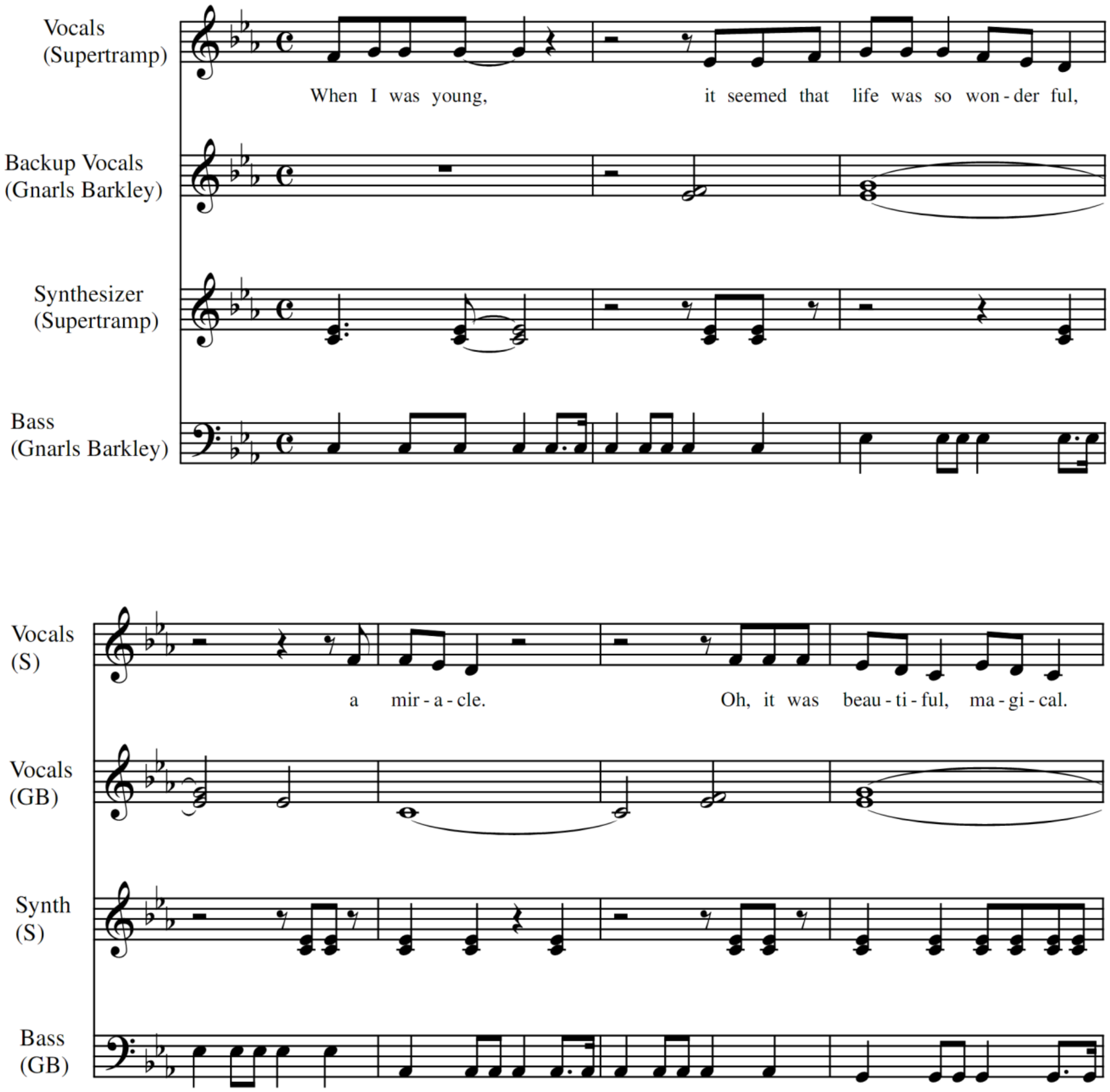
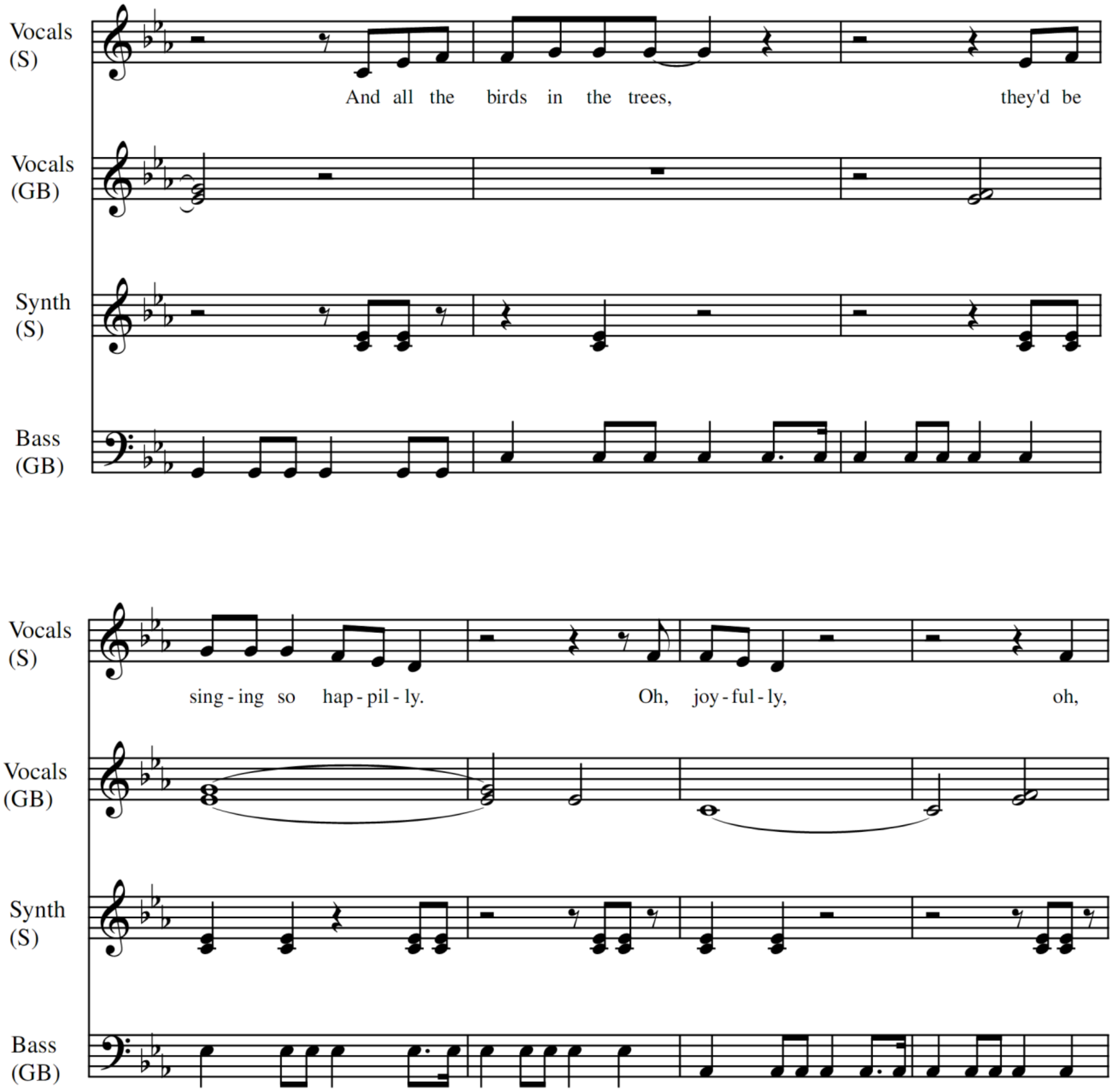
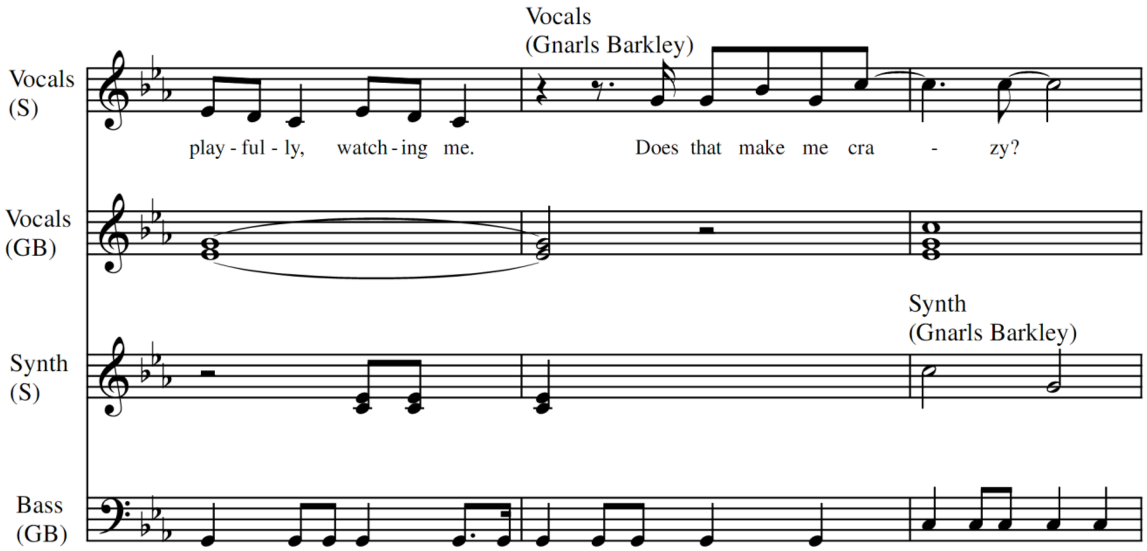
[50] Roseman, *Audio Mashup Construction Kit*, 80.

[51] Artie Fufkin is the name of a record label representative (played by Paul Shaffer) in the movie *This is Spinal Tap*.

Example 4.15, Arty Fufkin, "Crazy Logic," (0:25-1:01)


Vocals (Supertramp)
When I was young, it seemed that life was so won-der ful,
Backup Vocals (Gnarls Barkley)
Synthesizer (Supertramp)
Bass (Gnarls Barkley)
Vocals (S)
a mir-a-cle. Oh, it was beau-ti-ful, ma-gi-cal.
Vocals (GB)
Synth (S)
Bass (GB)


Vocals (S)
Vocals (GB)
Synth (S)
Bass (GB)
And all the birds in the trees, they'd be
sing - ing so hap - pil - ly. Oh, joy - ful - ly, oh,


Vocals (S)
Vocals (Gnarls Barkley)
play - ful - ly, watch - ing me.
Does that make me cra - zy?
Vocals (GB)
Synth (S)
Synth (Gnarls Barkley)
Bass (GB)

What is particularly striking and effective in this example is the strange way that the two songs seem to play off of each other's meaning to form a continuous, if somewhat unexpected narrative.

As can be seen from the above examples, irony and humor are key elements that often result from genre clashing. Placing the bravado-filled vocals of a very macho singer over the instrumentals of a soft rock tune or a frothy pop hit can seriously undermine the masculinity of the singer. "Eminenya" by DJ Eamon, for instance, combines Eminem's "The Real Slim Shady" with "Orinoco Flow" by Enya.[52] Eminem spends the majority of the track rapping about how he is different from other celebrities: he is real, he curses, he does not care about awards, he hates pop groups and wants to destroy them, and other people who act like him are just imitators. The original backing to Eminem's rap is a retro-sounding drum beat and synthesizer melody. The old-school style synthesizer sounds a bit facetious, and it draws attention to the fact that Eminem "[doesn't] give a fuck," and that he does not spend much money or effort on production values. His music is "raw," and the focus is on his rapping. However, when placed over Enya's instrumentals, the aesthetic profile of the song completely changes, similar to what happens to Beyoncé in "Single Ladies in Mayberry" discussed above. The music to "Orinoco Flow" has a lush, heavily-produced (synthesized) orchestral texture, and Enya herself is associated with the "New Age" style of music. The effect is one of sublime absurdity; "Eminenya" reduces Eminem to blathering on about his imitators over what now sounds like inspirational-sounding music. His rap has been completely disempowered by this mashup. Enya's slickly-produced music overturns Eminem's appeals to rawness and his professed resistance to commerciality; he is exposed for the commercial artist that he in fact is, as he is made to look ridiculous complaining about the commerciality of other pop stars.

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[52] DJ Eamon actually used a sound-alike cover version of "Orinoco Flow."

Another way mashups subvert meaning is through clever titles and lyrical interplay. "As in a wrestling match or a courtroom battle, the two 'mashed' acts are presented as opposing each other,"[53] for instance, "The Black Eyed Peas vs. Cake" or "Eazy-E vs. Johnny Cash." The staging of such fictional musical battles calls to mind the MTV claymation series "Celebrity Deathmatch."[54] But not only are the artists' names positioned as opposing one another, the song titles are combined in a clever way to make a new title for the mashup. “Titles can actually be the inspiration for the song pairing,” says DJ Earworm. “You may conceive of a title so striking or funny that a mashup is generated as an afterthought.”[55] For example, DJ Lobsterdust’s mashup of “Come On Eileen” by Dexy’s Midnight Runners and “Mama Said Knock You Out” by LL Cool J is called “Knock Out Eileen.” Silence Xperiment mashed up Queen’s “Another One Bites the Dust” with 50 Cent’s “This Is How We Do” to yield “This Is How We Bite the Dust.” Sometimes artists’ names are involved in the mashup title, as well. For example, Mark Vidler’s “Pink Wedding” is made up of “I’m Coming Up” by P!nk and “White Wedding” by Billy Idol.

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[53] Cruger, "The Mash-Up Revolution."

[54] This was a parody show where clay likenesses of famous people fought each other to the death (very graphically) in a wrestling ring.

This chapter has considered two sets of aesthetic principles for the mashup: construction and meaning. The five main elements that contribute to the principles of construction – tempo, rhythm, key, treatment of vocals, and song structure – are usually treated in a quite a traditional manner, following the basic guidelines for producing a well-made song. These five elements are regulated to emphasize clarity (of tempo, of rhythm, of harmony, of words) and effective organization (popular song forms). The other set of principles, those of meaning, is treated subversively. Mashups subvert meaning through genre clashes, which are often deployed to extract irony or humor.

Mashups are blended out of very different ingredients, yes, but they are combined into a cohesive whole. The interaction between construction and meaning is what makes a mashup into a distinctive genre. An element of familiarity can make something new more digestible. For example, music of Arnold Schoenberg used new, atonal harmonic material that an audience of his contemporaries was not familiar with. But his music was also deeply rooted in the past – Schoenberg wrote pieces using traditional forms and instrumentation. The blending of the old with the new resulted in pieces that ended up making him one of the most famous composers of his time.

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[55] Roseman, *Audio Mashup Construction Kit*, 81.

Conclusion

> We're living in this remix culture. This appropriation time where any grade-school kid has a copy of Photoshop and can download a picture of George Bush and manipulate his face how they want and send it to their friends. And that's just what they do. Well, more and more people have noticed a huge increase in the amount of people who just do remixes of songs. Every single Top 40 hit that comes on the radio, so many young kids are just grabbing it and doing a remix of it. The software is going to become more and more easy to use. It's going to become more like Photoshop when it's on every computer. Every single P. Diddy song that comes out, there's going to be ten-year-old kids doing remixes and then putting them on the internet.[1]

Lawrence Lessig calls this "Read/Write" culture, as opposed to "Read/Only" culture.[2] These terms are based on permission labels that are attached to computer files – a "Read/Only" file lets the user read the file, but make no changes to it; whereas a "Read/Write" file lets the user both read the file and change it. Girl Talk's statement reveals his opinion that we are living in a "Read/Write" type of society, where users constantly alter the content they acquire. According to Lessig, mashups are an example of a "Read/Write" art form. This type of art, and indeed, the mashup aesthetic itself, began to be seen in all facets of media in the twenty-first century. In addition to musical mashups, people were making video mashups, software mashups and mashups of website applications. John Shiga notes that "the cultural industries have incorporated mash-up techniques into marketing campaigns for existing pop stars, as well as for promoting jeans, shoes, cars, etc."[3]

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[1] Gregg Gillis (Girl Talk), quoted by Lessig, *Remix*, 14.

[2] Ibid., 28.

To get to the point where mashups of all types are commonplace, several technological advances had to come together. These advances facilitated the emergence and dispersion of the new musical genre. By the year 2000, personal computers had become ubiquitous. The personal computer is important to the mashup for two reasons: creation and distribution.[4] Because of developments in software, mashups could be created easily on a personal computer around the turn of the century. Previously, sound-editing software of the caliber needed to make a mashup was only available in professional recording studios. But by the year 2000, software like Acid Pro (around $400), and even free programs such as Audacity were readily available to anyone with a personal computer. The rise of the internet also played a major role in the shaping of the mashup. It allowed easy distribution of the songs while also enabling the formation of a culture among people who are geographically dispersed. A community has emerged around the genre on websites such as Get Your Bootleg On and Mashuptown, where mashup artists upload their creations. People post requests for specific mashups and issue mashup challenges on these websites. The sites give both producers and listeners a space to comment on mashups, provide suggestions, and display their work.

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[3] John Shiga, "Copy-and-Persist: The Logic of Mash-Up Culture," *Critical Studies in Media Communication* 24, no. 2 (June 2007): 95.

[4] Serazio, "The Apolitical Irony of Generation Mash-Up," 81.

By 2006, mashups had become "mainstream," according to Hillary Crosley.[5] She specifically points to the 2006 Grammy Awards, where Jay-Z, Linkin Park, and Paul McCartney performed what the press termed a "live mashup" together as the moment when the genre entered the mainstream.[6] Although no other author cites a specific moment for its normalization, this is indeed around the time that the genre began to be mentioned regularly in major newspapers and magazines around the country.

Although the mashup has received extensive coverage on the internet and in the press, it has not yet received much attention from scholars.[7] Moreover, neither the press coverage nor the scholarly work has focused much attention on the musical issues raised by the genre. My dissertation seeks to remedy that gap. The typology that I offer in the first chapter effectively distinguishes the mashup from related genres even as I refine its definition to reveal four principal subtypes. This first step was necessary due both to the newness of the genre as well as the lacuna of research around it. I focus primarily on two variables – the number of source songs and their mode of interaction. This typology distinguishes four main subtypes of mashup: the basic mashup, the cover mashup, the paint palette mashup, and the megamix mashup. Although it is certainly clear that mashups like those found on Danger Mouse's *Grey Album* and those created by Girl Talk follow different methods of construction, no one had previously codified those differences and empirically validated them by careful consideration of the music. In Chapter 1, I also locate five primary characteristics of the mashup:

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[5] Crosley, "Mashing Up 'Purple Rain'."

[6] According to my own typology, the performance was actually a cover mashup (since it was performed live and not made out of previously recorded material) that combined Jay Z's "Encore" with Linkin Park's "Numb." Although Paul McCartney joined the group at the end, his performance was not part of the mashup. He sang "Yesterday" while Chester Bennington, the lead singer of Linkin Park harmonized with him and Jay-Z interjected "uh-huh"s.

[7] Besides Serazio's article mentioned above and Lessig's work on the legal situation, Liam McGranahan's recent dissertation offers an important contribution from the perspective of an ethnomusicologist. Other scholars who have written about the mashup include Em McAvan [Em McAvan, "'Boulevard of Broken Songs': Mash-Ups as Textual Re-appropriation of Popular Music Culture," *M/C Journal: A Journal of Media and Culture* 9, no. 6 (2006)., David Gunkel [Gunkel, "Rethinking the Digital Remix.", Rebecca Leydon [Rebecca Leydon, "Recombinant Style Topics: The Past and Future of Sampling," in *Sounding Out Pop: Analytical Essays in Popular Music* (Ann Arbor: University of Michigan Press, 2010), 193-213., and Virgil Moorefield [Virgil Moorefield, "Modes of Appropriation: Covers, Remixes, and Mash-Ups in Contemporary Popular Music," in *Recorded Music: Performance, Culture and Technology*, 2010, 291-306.

1. Mashups consist exclusively of previously recorded songs.[8]
2. Mashups exhibit vertical interaction between the source songs.
3. Mashups use at least two source songs.
4. Mashups usually sample source songs at a sufficient length that the source is readily recognizable.
5. Mashups draw at least one of the source songs from a genre of popular song.

Again, these are characteristics that seem to be understood by those working in and writing about the genre – from journalists in *Billboard* to amateur mashup creators on message boards. But a clearly delineated list of attributes has not previously been available.

Chapter 2 discusses the legal issues that the mashup raises. After tracing a brief history of copyright law, I investigate a series of musical lawsuits, most of which were related to sampling in hip hop. Since sampling is also an issue in mashups, these lawsuits necessarily affect the way that mashup artists distribute their works. Mashups began as an amateur art, where the creators used pseudonyms to conceal their true identity in order to avoid lawsuits. A musical community has formed around these pseudonymous creators and their self-professed identities as music "pirates." The illegal status of mashups has, therefore, actually been quite integral to the development of the mashup community. At the same time, and despite the "fun" that some mashup artists have while operating under the law, the United States copyright law is also very poorly equipped to deal with art forms like the mashup, and commercial exploitation of the genre is unlikely to occur without major changes in either copyright law or a rationalization of the process for licensing samples.

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[8] This is of course not true for the cover mashup. Its name alone reveals the fact that it is different from the other types of mashup, and does not use recordings.

Chapter 3 examines the history of musical borrowing and quotation in order to draw out musical similarities between the mashup and earlier music. A crucial technological innovation in the history of musical borrowing involved the introduction of recording technology. What was once quotation on paper (or via memory, in music from an oral tradition) now became quite literal quotation of a particular performance, where everything about a specific recording is recontextualized in a new piece of music. What was once a somewhat abstract technique, in other words, suddenly became concrete. In this chapter, I also relate the mashup to late twentieth-century practices, especially club DJing and sampling in hip hop, that involve appropriation via recording technology.

Chapter 4 determines the aesthetic principles of an effective mashup. These are different from the features I draw out in Chapter 1 – a mashup can have all five of those primary characteristics and still be derided by both the press and the mashup community for being ineffective. Chapter 4 locates two sets of aesthetic principles for the mashup: construction and meaning. From reading journalists' reviews and notes on message boards, as well as from listening to a great number of mashups, I identify five constructive principles of the mashup:

1. The source songs must have matching tempos.
2. A mashup should be made up of songs whose beat patterns fit well with each other.
3. The source songs must be in keys that sound good together and do not produce any obvious clashing notes.
4. The songs must present their lyrics clearly.
5. Mashups should follow a formal structure common in popular songs.

These principles, while not essential to the *definition* of the mashup, are evidently essential to its aesthetic success among listeners. These are the principles that mashup creators aim for when they are making their tracks. Notably, these are all quite traditional characteristics that are similar to the constructive principles of the well-made popular song.

The meanings of mashups, on the other hand, follow principles of subversion. Most importantly, the source songs are usually drawn from distinct genres, creating what is called a "genre clash." The genre clash puts artists from very different classes of popular music into close contact with one another through musical juxtaposition. This juxtaposition, which frequently takes the form of "conversations" between two singers, often results in irony or humor. This is where the subversive meaning comes in – one of the source songs often ends up providing ironic commentary on the other and subverting its intended meaning.

Because mashups have developed so recently and scholarly research on the topic is still scarce, my dissertation is more widely-focused than many. It would have been almost impossible to refine my focus onto a particular composer of mashups, or even a subspecies of the genre, given that the more general characteristics had not yet been effectively defined. In this dissertation, I have developed a definition and a typology of the mashup, and broken it into four different subtypes. I have discussed some of the legal challenges that mashup producers face, I have delved into its musical origins and influences, and I have described in musical detail what constitutes a "good" mashup according to the practitioners and the mashup community. Because of its rather broad scope, I see my dissertation as a starting point, both for myself and for others doing research on mashups. Now that this document has laid out some basic principles of the genre, it is possible for research to continue on a more detailed level.

My investigation into the aesthetics of mashups focused mainly on the basic mashup. An obvious area for further research is the aesthetics of the megamix mashup and the paint palette mashup. Another subject that begs more inquiry is that of legally-made mashups. These are occurring more and more frequently as artists hire producers (and give them legal clearance) to make mashups with their tracks.[9] As a result, part of the pirate aesthetic that is so attractive to some mashup artists is gone. A study of how this change is affecting (or not affecting) the mashup community would be interesting.

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[9] Both DJ Freelance Hellraiser ("A Stroke of Genie-us") and Danger Mouse (*Grey Album*) have been hired to create legal mashups since their illegal ones were made famous.

And, of course, mashups that challenge the definitions I have outlined should be carefully examined. For instance, I would like to find examples of popular mashups that do not follow all of the aesthetic prescriptions laid out in this dissertation and attempt to analyze why these unusual mashups are still valued. Another issue that I would like to delve into in the future is the issue of balance among source songs in mashups. In Chapter 4 I talk about the way that various songs are combined with regards to rhythm, harmony, melody, and lyrical interaction. But another interesting avenue of research has to do with how much of each song is used and what parts. For instance, do both songs seem evenly represented in the mashup, or is one weighted more heavily than the other? What does this balance or imbalance say about the mashup, and what effect does it have on the meaning each of the source songs carries with it? It is now possible to answer questions such as these, using the language, typology, and aesthetic principles that I have developed in this dissertation.

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Vita

Christine Emily Boone was born in 1982 in Midland, Michigan and grew up in Chesterfield, Missouri. She received her bachelor's degree in vocal performance from Indiana University in 2003. She then moved to Austin, Texas to pursue graduate work. She received her master's degree in music theory in 2006 from The University of Texas.

Permanent Address: 14309 Strawbridge Ct.
Chesterfield, Missouri 63017

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