- "Subject to sections 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:
- (1) to reproduce the copyrighted work in copies or phonorecords;
- (2) to prepare derivative works based upon the copyrighted work;"
- 17 U.S.C. § 106

"(3) to distribute copies . . . ; (4) . . . to perform the copyrighted work publicly; (5) . . . to display the copyrighted work publicly; and (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission." 17 U.S.C. § 106



What don't kill me make me stronger
The more I blow up the more you wronger
You copied my CD you can feel my hunger
The wait is over couldn't wait not longer

N-now th-that that don't kill me Can only make me stronger I need you to hurry up now' Cause I can't wait much longer I know I got to be right now' Cause I can't get much wronger Man I've been waiting all night now That's how long I been on ya

- Two steps:
  - Actual Copying
  - Improper Appropriation

## **Actual Copying**

- Actual Copying is a balance of:
  - Access
  - Striking similarity
- Inverse Ratio (lack of one makes up for the other)
- Evidence of access in Peters?
- Evidence of striking similarity in Peters?

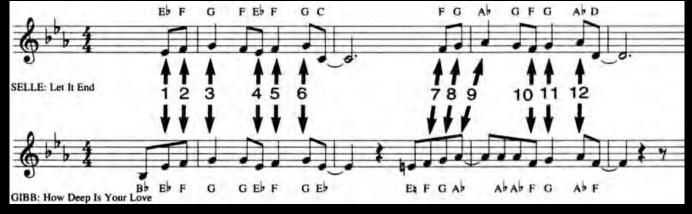
# Actual Copying

Selle v. Gibbs

How deep is your love

• Let it end

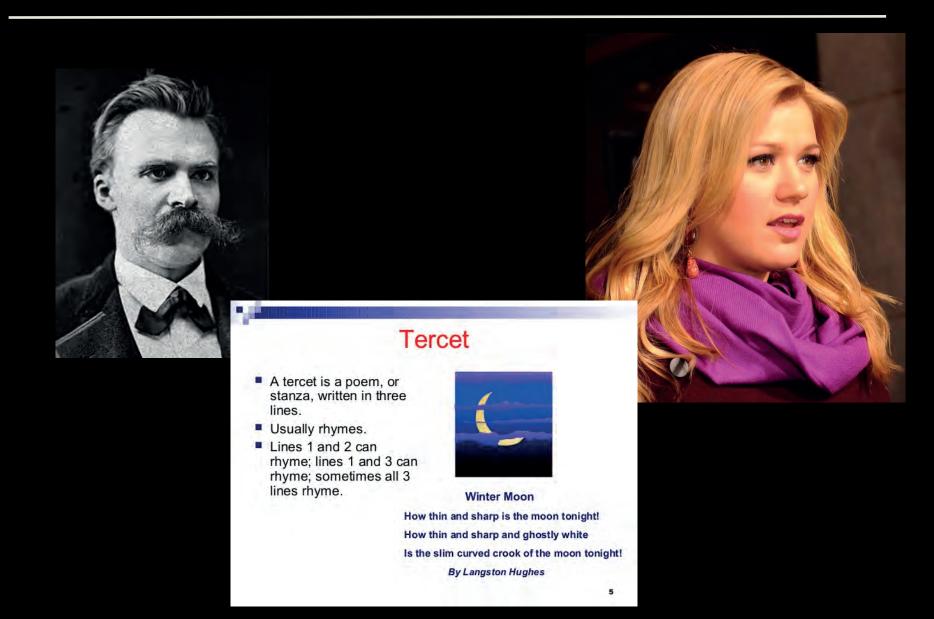




- Two steps:
  - Actual Copying
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## Improper Appropriation

- Only infringe if copy protectable expression
  - Filter out unprotectable elements
  - Abstraction-Filtration-Comparison

 Is Peters a no "actual copying" case or no "improper appropriation" case?

Courts sometimes conflate