

Copyright Infringement

“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

Copyright Infringement

“(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

Peters v. West



Peters v. West

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

Copyright Infringement

- 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*

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- How deep is your love

- Let it end



Musical notation comparing two versions of the song "How Deep Is Your Love".

SELLE: Let It End

Notes: Eb F G F Eb F G C F G Ab G F G Ab D

Arrows: 1 2 3 4 5 6 7 8 9 10 11 12

GIBB: How Deep Is Your Love

Notes: Bb Eb F G G Eb F G Eb Eb F G Ab Ab Ab F G Ab F

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Tercet

- A tercet is a poem, or stanza, written in three lines.
- Usually rhymes.
- Lines 1 and 2 can rhyme; lines 1 and 3 can rhyme; sometimes all 3 lines rhyme.



Winter Moon

How thin and sharp is the moon tonight!
How thin and sharp and ghostly white
Is the slim curved crook of the moon tonight!

By Langston Hughes

Peters v. West



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