



DUALE, OVIA &
ALEX-ADEDIPE

Music Sampling: Insights for Nigerian Creators



Introduction

Music sampling, a widely embraced technique in the music industry, allows artists to incorporate segments of existing audio recordings into new compositions. This creative approach enables artists to reinterpret classic songs in a modern context, blending nostalgia with contemporary appeal. For example, Nigerian classics like “Raise Da Roof” by Adewale Ayuba and Jazzman Olofin were sampled in Asake’s song titled “Active”¹ featuring Travis Scott, and Seyi Sodimu’s “Love Me Jeje”² was reimagined by Tems in her rendition of the same title. Such instances highlight how sampling effectively bridges the past and present, infusing music with new creative interpretations.

However, the creative freedom sampling offers also requires careful navigation of its legal boundaries. The rights and obligations tied to sampling are often misunderstood or overlooked, creating significant risks and potential liabilities for artists, producers, and industry stakeholders alike.

In this edition of the IP Watch, we explore the legal intricacies of music sampling under Nigerian copyright law.

¹ <https://independent.ng/adewale-ayuba-shines-in-asakes-new-single-active/> (accessed October 25, 2024)

² <https://the49thstreet.com/top-10-samples-and-interpolations-in-afrobeats/> (accessed October 25, 2024)



Nature of Music Sampling and Interpolations

Music sampling involves incorporating segments of pre-existing recordings, such as rhythm, melody, speech, or sound effects, into a new track³. The sampled material can range from brief snippets to more extensive sections. Interpolation, on the other hand, entails recreating or re-recording a portion of an existing song rather than using the original audio recording. This can involve reinterpreting melodies, harmonies, or lyrics and integrating them into a new composition⁴.

The history of music sampling dates to the mid-20th century⁵, but it gained widespread recognition with the landmark case of *Grand Upright Music Ltd. v. Warner Bros. (1991)*⁶. In a notable judgment, the judge famously began with a biblical quote, "Thou shalt not steal," before granting an injunction to Grand Upright Music. This ruling was further to the unauthorized sampling of Gilbert O'Sullivan's song "Alone Again" by rapper Biz Markie in his album "I Need a Haircut". The decision marked a pivotal shift in the U.S copyright law, necessitating the need for pre-clearance in sampling. A standard that has since influenced global music practices.

³The Song Remains the Same: A Review of the Legalities of Music Sampling (wipo.int) (Accessed October 25, 2024)

⁴<https://medium.com/urban-central/sampling-in-the-nigerian-music-industry-29153fda6772> (Accessed October 24, 2024)

⁵https://www.wipo.int/wipo_magazine/en/2009/06/article_0007.html (accessed October 25, 2024).

⁶780 F. Supp. 182 (SDNY 1991)



Nature of Music Sampling and Interpolations

In Nigeria, copyrights are primarily governed by the **Copyright Act 2022** (the "Act"). The Act grants authors and originators exclusive rights to their works⁷.

According to the Act, songs are broadly categorized into two components:

1. **Musical Works**⁸: This includes the composition, which encompasses the lyrics, melody, and arrangement.
2. **Sound Recording**⁹: Also known as the "Master," this refers to the actual audio recording of the song.

Typically, the composition is owned by the songwriter or publisher, while the sound recording is owned by the recording artist or record label. In some cases, both the composition and sound recording may belong to the same individual or entity.

Sampling raises potential legal issues because both components—musical works and sound recordings—are protected under copyright law. Therefore, Infringement occurs when any of these exclusive rights are exercised by another person without the authorization of the copyright owner¹⁰. Through the reproduction and adaptation involved in sampling, artists risk infringing on the rights of the copyright owners of either the composition, the sound recording, or both¹¹.

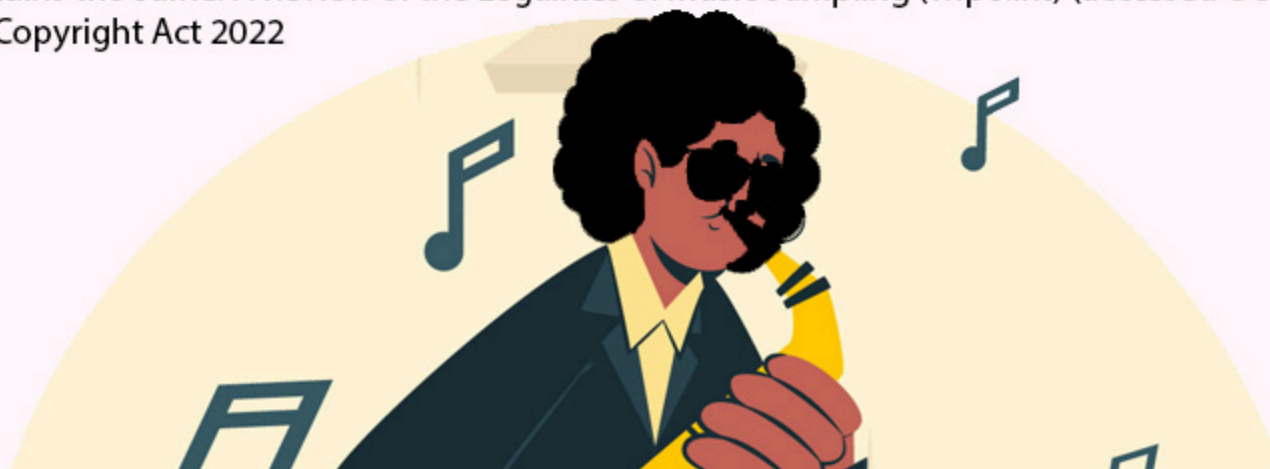
⁷Section 9 Copyright Act 2022

⁸Section 2(1)(b) Copyright Act 2022

⁹Section 2(1) Copyright Act 2022

¹⁰The Song Remains the Same: A Review of the Legalities of Music Sampling (wipo.int) (accessed October 25, 2024)

¹¹Section 36(a) Copyright Act 2022



Licensing: The Legal Way to Sample

For an artist or producer to lawfully sample another's work, they need to obtain a license from the copyright owner or their agent. This is typically done through:

1. **Master Use License:** This license allows the use of the sound recording itself. It is obtained from the record label or the artist that owns the recording.
2. **Mechanical License:** This allows the reproduction of the underlying composition (the melody, harmony, or lyrics). It is typically obtained from the songwriter or music publisher.

These licenses must be secured before artists can legally incorporate the sampled material into their new work. In many cases, the terms will dictate the financial compensation owed to the original creator, which may include upfront fees, royalties, or both.

The Future of Music Sampling

As technology continues to advance, the future of music sampling is likely to evolve. The rise of artificial intelligence and machine learning tools may provide new ways to sample existing recordings. Additionally, the ongoing discussions around copyright reform may impact how sampling is approached in the industry, potentially leading to more flexible frameworks that encourage creativity while respecting the rights of original artists¹².

¹²<https://moosecatrecording.com/ai-and-the-future-of-sampling-in-music/> (accessed October 25, 2024)



Conclusion

Sampling can be an invaluable creative tool in the music industry, but it requires careful legal consideration. In Nigeria, artists must secure authorization from copyright holders to incorporate samples lawfully. By adhering to copyright requirements, artists can ensure that their interpretations of classic works acknowledge and protect the rights of the original creators.

