

Of Girl Talk and Dangerous Mice: Exploring the Clash Between Music Sampling, Mashups and Copyright Law in the Digital Age

Joseph G.M.D. De Jesus

57 ATENEO L.J. 1175 (2013)

SUBJECT(S): *TECHNOLOGY, INTELLECTUAL PROPERTY, COPYRIGHT, MUSIC, SAMPLING, MASHUPS*

KEYWORD(S): *TECHNOLOGY, INTELLECTUAL PROPERTY, COPYRIGHT, MUSIC, SAMPLING, MASHUPS, REMIX, SONGS,*

A mashup is a song or composition created by taking two or more songs and mixing or “mashing” them together to create a new form of musical expression. The mashup movement has spawned a whole new generation of music enthusiasts and artists alike taking popular music hits, mixing those that sound well together, and uploading them over social media for the entire world to listen, enjoy, and even criticize. Some would even go to the extreme, taking cuts and pieces from hundreds of copyrighted sound recordings and musical compositions, and use them as raw material for song creation – usually without the consent of the copyright holder.

The rise of this genre of music has raised serious questions not only on its artistic value, but on its viability under existing copyright law. On one hand, proponents of the genre cite fair use and *de minimis* principles to justify not having to pay licensing fees to sample sound recordings. Branding this genre of music, they say, would stifle creativity and free expression. On the other hand, copyright holders adhere to a bright-line rule – unlicensed sampling, no matter how substantial or not, amounts to copyright infringement.

The Author explores the issues surrounding the mashup controversy, a unique dilemma brought about by the age of digital music, social media and file-sharing. The Author concludes that copyright law should evolve and adapt in order to encourage genres such as these to thrive in the digital age, while at the same time, to ensure that artist’s rights to their work remain protected.