

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

CO Trial
Ex. 420

In the Matter of

Mechanical and Digital Phonorecord Delivery Rate
Adjustment Proceeding

Docket No. 2006-3 CRB DPRA

**EXPERT REPORT OF JUDITH FINELL
ON BEHALF OF NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.,
THE SONGWRITERS GUILD OF AMERICA AND THE NASHVILLE
SONGWRITERS ASSOCIATION INTERNATIONAL**

1. I am Judith Finell, President of Judith Finell MusicServices Inc., and a professional musicologist. I submit this report on behalf of National Music Publishers' Association, Inc., the Songwriters Guild of America and the Nashville Songwriters Association International (the "Copyright Owners") to rebut the contention of the Recording Industry Association of America, Inc. (the "RIAA") that the creation of mastertones is "routine" and does not result in a complete musical work.

Background

2. I have an M.A. (1970) in Musicology from the University of California, Berkeley and a B.A. (1968) in Music Performance (Piano) from the University of California, Los Angeles (UCLA). I founded Judith Finell MusicServices Inc. in 1976 as a consulting service for classical composers, musicians, and arts organizations. Today, Judith Finell MusicServices Inc. also provides music consulting and expert services for record companies, music publishers, advertising firms, entertainment companies, and technology companies.

3. As President of Judith Finell MusicServices Inc, I consult on, and have served as expert witness with respect to, various disputes regarding intellectual property, including copyright infringement litigation involving the Beastie Boys, Julio Iglesias, Sony/CBS and Igor Stravinsky. Specifically, my work in this context involves analyzing and comparing sound recordings and musical works and evaluating those works according to the principles of musical composition to determine, among other findings, whether one work is substantially or strikingly similar to another for copyright infringement matters. In order to make such a determination, I analyze all elements of the musical compositions or recordings involved, including the melody, rhythm, harmony, text/lyrics, instrumentation, style, and arrangement, when applicable, under the principles and theories of musical composition that have existed in western music for centuries. I am also often asked by music industry members, as well as individual artists and their representatives, to opine on the originality and creativity involved in particular musical works and their creators, and have often guest lectured on this subject at universities and music conservatories.

4. I have served as a trustee of the Copyright Society of the U.S.A. and have appeared as a guest lecturer on music and intellectual property issues at law schools and universities including Columbia University, Vanderbilt University, UCLA, NYU, and George Washington University, as well as before the Michigan Patent Law Association, the Copyright Society of the U.S.A., the American Bar Association, the American Intellectual Property Law Association, the Beverly Hills Bar Association, the Los Angeles Copyright Society, and the Association of Independent Music Publishers.

Most recently, I was the co-chairperson of the Copyright Society of the U.S.A.'s annual mid-winter conference.

5. My work has also included advising such clients as the Chamber Music Society of Lincoln Center, the Boston Symphony Orchestra, and MIT's Media Lab. I have consulted with individual concert artists such as Pinchas Zukerman, Itzhak Perlman, and artists of the Metropolitan Opera. I have taught workshops for conductors, composers, managers, and other musical artists and administrators on various subjects including career development and the music industry. I have also worked as a freelance music and book editor. As such, I have edited music in all performance categories, including instrumental, vocal, choral, band, orchestral, and electronic. In connection with my work, I am often asked to develop or opine on criteria and guidance documents for use in judging music for awards and contests, commissioning new musical works, and appraising the eligibility of musical works and composers for recognition. My *curriculum vitae*, which includes a list of my publications, is attached as Exhibit A.

6. Work on this project was done with the assistance of my colleagues at Judith Finell Music Services Inc. I am being compensated at a rate of \$300-400 per hour, and my colleagues are being compensated at their standard rates. A list of the documents and material that I considered in connection with my report is attached as Exhibit B.

Scope and Methodology of this Report

7. I have been asked by the Copyright Owners to submit this report to rebut certain of the positions taken by the RIAA in this proceeding concerning mastertones. Specifically, I reviewed the oral testimony of Sony BMG employee

J.J. Rosen (2/14/08 Tr. at 3506:11-3551:01); the Written Direct Testimony of J.J. Rosen, dated November 29, 2006;¹ the decision of the Register of Copyrights in *In re Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding*, 71 Fed. Reg. 64303-01, 64312 (Nov. 1, 2006) (the “Ringtones Referral”), and the briefing submitted thereon; the Written Direct Statement of the RIAA as it relates to mastertones; and a document produced in discovery, which is entitled “Mobile Media Production” and which provides Sony BMG employees charged with creating mastertones guidance as to how to create them (the “Sony BMG Guidelines”). I understand that the RIAA contends that the creation of mastertones is “routine” and that creating a mastertone does not require creative judgment, or result in a complete musical work.² See 2/14/08 Tr. at 3523:15-173, 3534:11-20 (Rosen); see also *id.* at 3516:3-3517:18; Introductory Memorandum to the Written Direct Statement of the Recording Industry Association of America, Inc., dated November 30, 2006 at 10 (“typical mastertones are nothing more than the excerpts of recordings that have been processed to meet various technical

¹ I understand that portions of Mr. Rosen’s written testimony have been stricken from the record of the proceeding.

² The decision of the Register of Copyrights dated October 16, 2006, concluded among other things that mastertones that “simply copy a portion of the underlying musical work . . . do not contain any originality and are created with rote editing.” Ringtones Referral, 71 Fed. Reg. at 64312. Because the Register confined her conclusion to mastertones that are excerpts of preexisting sound recordings and because the Register expressly stated that the question of whether a “ringtone[] that contain[s] a portion of the full-length musical work and additional spoken material . . . or one that includes the addition of some new lyrics, results in a copyrightable derivative work . . . is beyond the scope of this proceeding,” *id.* at 64313, I have confined my analysis in this report to mastertones that are excerpts of preexisting sound recordings without the addition of any additional material. Accordingly, my use of the term “mastertone” in this report refers solely to such mastertones.

specifications.”); Reply Brief of the Recording Industry Association of America, Inc. Addressing Novel Questions of Law on Referral to the Register of Copyrights, dated September 13, 2006 (“Ringtones are . . . merely partial copies. . . . Mastertones . . . do not ‘stand on their own.’”).

8. Specifically, I was asked to analyze the mastertones submitted as an exhibit to RIAA Trial Exhibit 63 (the “Sony BMG CD”), as well as certain mastertones presented to the Register of Copyrights at the oral argument on the Ringtones Referral. I was asked to compare those mastertones to the sound recordings³ from which they were derived to determine (1) whether, from a musicologist’s perspective, the creation of mastertones appears to involve the exercise of musical and creative judgment, and (2) whether mastertones, as a matter of musical composition, theory and principles, exhibit the characteristics of musical works.

9. In order to perform my analysis for this report, I listened to and prepared transcriptions of the mastertones on the Sony BMG CD. I also listened to the full-length sound recordings from which the mastertones were derived, and obtained and referred to the sheet music available for the works performed on the recordings.⁴ For

³ Because the underlying musical work is embodied in the sound recording from which the mastertone is derived, in each instance in this report in which I refer to a sound recording as a point of comparison, I am also referring to the underlying musical work embodied in the particular sound recording.

⁴ The published sheet music that is often available to the public (and to which I referred in my analyses) is often not a precise representation of the musical work as arranged for the recording of the work. Typically, the sheet music is a simplification of the work as arranged for a performance. Where the sheet music differed from the recording, and, consequently the mastertone, I did not factor any such difference into my analysis or conclusions set forth in this report.

those works for which sheet music was not readily available, I prepared transcriptions of the relevant passages of the works as heard on the recordings.⁵ I transcribed only the lead vocal lines and lyrics in each mastertone and corresponding song (when sheet music was not available) and not the underlying instrumental accompaniment, harmonies, nor secondary vocal parts (back-up singers) because these were not essential (in transcribed form) to formulating my opinion.

10. Once I transcribed the mastertones and obtained sheet music or prepared transcriptions, when necessary, of the underlying works, I next compared each mastertone to the underlying recording from which it was derived to make a number of determinations. Specifically, I first determined which particular segment of the underlying recording was used as the basis for the mastertone, including identifying the particular location at which the mastertone begins and concludes. I next analyzed each mastertone in order to identify where else in the underlying recording the related segments appeared and why, from a musical perspective, the particular segment chosen functioned well as a mastertone. For example, where a mastertone was the primary “hook” of the original song, I compared all of the variants of the primary hook in the

⁵ I obtained published sheet music for all of the recordings that I analyzed except for “Hollaback Girl,” performed by Gwen Stefani. Thus, I purchased sheet music for “Irreplaceable,” performed by Beyoncé, “. . . Baby One More Time,” performed by Britney Spears, “Girls Just Want to Have Fun,” performed by Cyndi Lauper, “That’s All Right,” performed by Elvis Presley, “My Love” and “SexyBack,” performed by Justin Timberlake, “Over My Head,” performed by The Fray, and “Gimme Shelter,” performed by The Rolling Stones. In each case, where multiple versions or arrangements of the song were available, I chose the version or arrangement that was most similar to the recorded version from which the mastertone was derived. The transcriptions and sheet music for the above recordings and the mastertones derived therefrom are attached as Exhibits C-1 through C-9.

original song to determine why I believed a particular version of the hook was chosen. I then analyzed — from a musical perspective — how a particular mastertone was edited or “cut” by examining the beginning and concluding points and the musical material surrounding each. Further, for certain mastertones that appeared (whether because of length or structure) to be designed to “loop,” that is, to repeat as a mobile phone continues to ring, I examined the relationship from a melodic, harmonic, and structural perspective of the end of the mastertone to its beginning. I then conducted a musical analysis of each mastertone and reviewed each full-length sound recording. To that end, I made assessments (relevant to my analysis here) about the structure of the works, their melody, rhythm, and harmony.

Summary of Conclusions

11. As I explain in more detail below and in the attached exhibits, as a result of my analysis undertaken in connection with this report, my knowledge of musical composition, and my experience as a musicologist, I reached a number of conclusions concerning the creation of mastertones and the characteristics of mastertones as musical works.

12. The creation of mastertones is not a “rote” editing process, but rather involves the exercise of several creative and musical judgments. First, the creator must choose the appropriate segment from the sound recording to be used as a mastertone. Usually, several segments of a recording are viable candidates for the mastertone, while many are not. The choice of one over the other is a creative one informed by the artistic goal of the creator and the desire to use a passage recognizable to consumers and evocative of the underlying work. Second, recognizable passages repeat

throughout a work numerous times, often in varying iterations. Thus, a creator must decide which of the varying iterations of the segment to use as the mastertone. Again, that decision involves a creative choice and musical judgment about whether the mastertone should be musically unadorned or embellished, among other considerations. Finally, the creator must decide how to edit the mastertone, meaning on which note, chord, or other musical material to begin and on which note to conclude — a determination that also involves creative choice as to how the mastertone will present in a sonically pleasing manner.

13. The result of the creative process involved in mastertone creation is that mastertones are not mere excerpts or fragments of sound recordings, but rather stand on their own as complete musical works. While they may begin with an excerpt from a full recording, in the end, they become independent musical works with their own identities. Each mastertone that I analyzed in connection with this report is musically balanced, contains the technical elements of full-scale musical works and possesses aesthetic integrity.

Analysis

14. In accordance with the methodology described above, I undertook to analyze the mastertones on the Sony BMG CD and two additional mastertones that were presented to the Register of Copyrights at the oral argument on the Ringtones Referral.⁶ As set forth in my conclusions, based on my analysis, I arrived at several

⁶ The two additional mastertones are “Hollaback Girl,” performed by Gwen Stefani and “Gimme Shelter,” performed by The Rolling Stones. Attached as Exhibit D to this report is a CD which contains these two mastertones and the sound recordings from which they are

determinations concerning how each mastertone appears to have been created, the musical judgments made in that process, and the characteristics of each of the mastertones as musical works. In this section, I illustrate the basis for my conclusions through several mastertones derived from the full-length work “Irreplaceable,” performed by Beyoncé, one of which mastertones I understand was played for the Court during the oral testimony of J.J. Rosen.

15. I begin my analysis with a discussion of basic musical composition terms and principles, which I use throughout my discussion and which warrant explanation at the outset. I then provide an in-depth discussion of three “Irreplaceable” mastertones and the sound recording from which they were derived. I then briefly describe the musical criteria contained in the Sony BMG Guidelines, and discuss whether the mastertones on the Sony BMG CD embody the principles and criteria set forth in the Sony BMG Guidelines.

Musical Terms

16. Music is composed of several fundamental elements that a musicologist, in analyzing a piece of music, examines, both in isolation and combination. These elements are:

(a) *Melody* is defined as pitch plus rhythm. A pitch is a tone, such as a C, D, or E. Each pitch in a melody has a time value, meaning the duration for which the

derived. It appears that the mastertone derived from “Hollaback Girl” was derived from the radio version of the sound recording, rather than the version released on CD, which version includes explicit lyrics. In addition, I understand that the mastertones on Exhibit D were recorded from a mobile phone, and therefore repeat as the mobile phone continues to ring.

pitch sounds before the next pitch is heard. A melody is a single line of music. For example, the melody of the song “Happy Birthday” is the tune that one sings to the lyrics “Happy birthday to you.”

(b) *Note* refers to either a musical sound within a melody or the written symbol representing such a sound.

(c) *Rhythm and Meter* refer to the way in which music is organized in time. Each individual pitch in a melody has a duration. This duration is referred to as the rhythm or “value” of the pitch. Entire musical works are divided into groups of beats which constitute the ongoing pulse of the music. Beats are subdivided into small groups, such as groups of two, three, four, or six beats. These groups define the “meter” of the work, referred to as duple (meters based on two and four), triple (based on three) and so on. Each group of beats is referred to as a “bar” or “measure.” Within each bar, the beats are also subdivided into alternating strong beats (accented) and weak beats (unaccented). In a four-beat bar, for example, beats one and three are considered to be strong beats (with beat one being the stronger) and beats two and four weak ones. When a musical phrase or section begins on the first beat of a bar, it is referred to as beginning on the “downbeat,” and when it begins just before the downbeat, it is referred to as the “upbeat.”

(d) *Harmony* refers to the use and organization of chords. The chords one hears on the guitar or piano, for example, when singing “Happy Birthday,” form the harmony of the song. A chord is a combination of pitches, usually three or more, sounded simultaneously. A sequence of chords is referred to as a chord or harmonic progression. In traditional music, including the popular music embodied by the mastertones discussed in this report, chords are organized in a sequence according to

established harmonic principles and formulae. Chords are referred to with Roman numerals by their function and the scale step upon which they are based. For example, the most important chord of the key that forms its tonal center is referred to as the I or “tonic” home chord. In the key of C major, this would be a C major chord. The second most important chord in traditional harmony is the chord based on the fifth step (note) of the scale, and is called the “dominant” or V chord. In the key of C major, for example, a G major chord is referred to as a V or “dominant” chord. The chord progression in which chords I and V alternate is the most common one in traditional music, and the V chord is followed by a I chord traditionally.

(e) *Dissonance and Consonance (Tension and Resolution)* refer to harmonic movement in music, which is generated by motion toward a goal or resolution. This striving for resolution is the dynamic force that shapes forward movement and direction in music. Movement in music receives its impetus from dissonance, a combination of tones that sounds discordant, unstable, and in need of resolution. Dissonance introduces the necessary tension into music. The resolution of dissonance results in consonance, a concordant or agreeable combination of tones that provides a sense of relaxation and fulfillment in music. At their extremes, dissonance can be harsh sounding while consonance is more pleasing to the ear. Each complements the other; and both are necessary parts of the artistic whole.

(f) *Scale Degree* describes the position within a musical scale of a particular tone or note. In a traditional seven-tone C-major scale, for example, the first tone, C, is scale degree one, D is scale degree two, E is scale degree three, and so on. If

two melodies contain a significant series of the same or similar scale degrees, as well as rhythms, they sound alike.

(g) *Hook* refers to the most distinctive and memorable element of a popular song or instrumental work, usually the main melodic theme associated with the work, *i.e.*, its “signature” melody. In popular vocal music, the hook is most often the melody and lyrics affiliated with the title lyrics. Usually, a hook is a single phrase that recurs periodically and often throughout the song. Hooks are most often located in the chorus section of the song. In addition to the primary hook of a song, some songs also contain distinctive secondary hooks that are also identifiable, and often repeated.

17. In addition to analyzing the elements of a piece of music, musicologists also analyze its *structure and form*, which refer to the organization of a musical composition into smaller units or sections. Musical works are divided into smaller sections, much as books are divided into chapters. In popular songs, these sections are often alternating “choruses” and “verses,” as well as transitional sections such as “bridges” and “interludes,” and ending sections called “codas.” Traditionally, chorus sections contain repeated words and melodies, and are often referred to as “refrains,” while verses use changing lyrics to advance the song’s story, but contain the same verse melody. For example, in the song “Jingle Bells,” the chorus section begins with the lyrics “jingle bells,” and the first verse begins with the lyrics “dashing through the snow.”

18. The material within each section of a musical work begins with the smallest musical unit (called a theme or motive) and moves into larger groups called phrases. A phrase is similar to a sentence within a paragraph or a line within a poem. In

vocal music, phrases are often determined by the pauses between lyric lines as a singer takes a breath. To understand the musical architecture of a work, music analysts study and discuss musical works in terms of their form, and do so by comparing phrases and sections to one another to discover the basic building blocks of a musical composition. Just as one would describe the structure of a building by comparing its various subdivisions and internal geometric shapes, a musicologist compares the phrases of a musical work to determine its form. Phrases, when compared to one another, fall into one of three categories: (A) same (B) different (C) variation of an earlier phrase. A musicologist customarily assigns letters to the various phrases or sections that represent whether they are the same, different, or a variation, and the outcome of this analysis results in the form defined. An example of a three-part form may be found in “Twinkle, Twinkle Little Star” below:

Phrase	Category	Lyrics
A	First phrase melody and lyrics	Twinkle, twinkle little star, how I wonder what you are
B	Different melody and lyrics from Phrase A	Up above the world so high, like a diamond in the sky
A	Repeat (return) to Phrase A melody and lyrics	Twinkle, twinkle little star, how I wonder what you are

Analysis of “Irreplaceable”

19. The first several mastertones on the Sony BMG CD are mastertones derived from the 3 minute, 48 second sound recording “Irreplaceable” performed by Beyoncé. To provide context for my analysis of the mastertones, I first describe the musical structure relevant to my analysis of the full-length work.

20. “Irreplaceable” (see track 1 of the Sony BMG CD) is composed of alternating choruses and verses, as well as several additional musical sections. The

chorus of “Irreplaceable” is repeated four times throughout the song. The chart below shows the structure of “Irreplaceable,” including how many bars of music are included in each section of the song. In the analysis of the mastertones derived from “Irreplaceable,” I will refer to the different choruses of “Irreplaceable” as Chorus 1, Chorus 2, Chorus 3, and Chorus 4.

“Irreplaceable”

Sections

Introduction	Verse 1	Chorus 1	Verse 2	Chorus 2	Bridge	Interlude	Chorus 3	Chorus 4
1-4	5-16	17-26	26-37	38-47	48-55	56-64	65-73	73-83

Bars

21. Like virtually all songs in the genre of popular music, “Irreplaceable” contains a hook, which, as discussed above, is the song’s most distinctive and memorable musical element. The lyrics of the primary hook are “you must not know ’bout me,” appearing in the song sixteen times. The title lyrics — “you’re irreplaceable” — constitute a “secondary hook” and are located in a secondary phrase at the end of the song’s chorus. This secondary hook repeats four times. There are two additional iterations of the lyric “irreplaceable” that are not preceded by “you’re” (these occur in the back-up vocal material, at the end of Chorus 2 and the beginning of the bridge section). Another prominent secondary phrase — with the lyrics “to the left” — opens the song

and serves as a connecting phrase throughout the song. This phrase repeats sixteen times (two of which are in the verse section, preceded by the lyrics “in a box”).⁷

Irreplaceable Mastertone One

22. The first “Irreplaceable” mastertone (*see* track 2 of the Sony BMG CD (“Irreplaceable Mastertone One”)), is derived from bars 17-18 of “Irreplaceable” and constitutes seconds 44 through 48 of the sound recording. In total, Irreplaceable Mastertone One is four seconds long and is comprised of two iterations of the song’s primary hook “you must not know ’bout me.” The two primary hooks used in Irreplaceable Mastertone One appear contiguous to one another and constitute the first and second versions of the hook in the full-length work. Because of its length and harmonic structure, described in detail below, Irreplaceable Mastertone One appears to be designed to loop — that is, it is designed to be repeated over and over as a mobile telephone rings. The mastertone’s melody is comprised of two nearly identical phrases. Harmonically, the chord sequence of Irreplaceable Mastertone One is a B-flat chord (which is a I chord), followed by an F-major chord (which is a V chord). As explained above, the most common chord progression in traditional music is the alternation of chords I and V, and the V chord traditionally is followed by a I chord. This is significant here because Mastertone One ends on a V chord and begins on a I chord, so when it

⁷ In Exhibit C-1, I demonstrate these features of Irreplaceable Mastertone One, including where it appears in the original song. The music and lyrics of “Irreplaceable” are also set forth at Exhibit C-1.

repeats (loops), it sounds musically correct and the transition from the end of the rendition of the mastertone to the beginning of the next is seamless.

23. Based on my comparison of Irreplaceable Mastertone One and the full-length version of “Irreplaceable,” I came to a number of conclusions about (1) how Irreplaceable Mastertone One appears to have been created and (2) its characteristics as a free-standing musical composition.

24. First, in creating Irreplaceable Mastertone One, the creator needed to select an appropriate and attractive hook or other passage of the original song that could be used as a mastertone. The creator here chose to use two contiguous iterations of the primary hook as opposed to another segment of the work. Second, having chosen to use two iterations of the primary hook, the creator then chose among the sixteen versions of the primary hook contained in the full-length recording. This determination is musically significant because the various versions of the hook combined with their accompanimental material differ in important respects. Thus, some versions of the hook are simple and unadorned, and, consequently, more accessible to the listener. The version of the hook beginning at bar 17, second 44 of “Irreplaceable” is an example of a simple version of the primary hook. Other versions include embellishment. For example, at 3 minutes, 16 seconds (where Choruses 3 and 4 meet), there is a version of the primary hook in which another vocal melody overlaps with the hook lyrics. The versions of the hook that the creator chose for Irreplaceable Mastertone One are simple and pure versions of the hook, meaning that they do not include musical distractions, such as simultaneous vocal melodies, and thus are the most easily recognizable version of the hook to a listener.

25. Third, the creator of Irreplaceable Mastertone One chose the particular beginning and ending points for the mastertone. The creator cut the mastertone at the precise melodic notes — B-flat and D — where the two contiguous hooks begin and end and did not, as he or she could have, include additional melodic notes preceding or following the iterations of the hook. For this specific cut, the creator chose the second half of the first beat of the bar as the beginning note, rather than the downbeat, which is the very beginning of the bar. The downbeat contains material from the previous musical phrase. The creator chose to end the cut on beat 3 of the bar, rather than at the end of the bar, which would have been beat 4, where a new phrase begins with the lyrics “I could have an-.”

26. I further note that the particular beginning and end points that the creator chose for Irreplaceable Mastertone One are well-balanced from a musical harmony perspective for a mastertone that loops because two loops together create a traditional chord progression from one loop to the next. As discussed above, accepted harmonic principles dictate that a V chord is traditionally followed by a I chord. In Irreplaceable Mastertone One, the second musical phrase of the mastertone, which encompasses the second version of the hook, ends on a V chord. The first section of the mastertone, which encompasses the first version of the hook, begins with a I chord. Thus, if Irreplaceable Mastertone One loops as a telephone rings, the V chord will be followed by the I chord in a musically correct transition.

27. Based on my musical analysis of Irreplaceable Mastertone One, I further conclude that it stands on its own as a musically-balanced composition for a number of reasons. First, it includes all the elements of a complete musical

composition — structure, harmony, melody, and lyrical phrasing. The work is musically balanced because it contains two symmetrical phrases. Second, it includes a beginning, which is composed of the “statement” phrase (“you must not know ’bout me,” with the I chord as the harmony) and an end, composed of the “response” phrase (“you must not know ’bout me,” with the V chord as the harmony). Third, it is free of musical distractions such as counter melodies from back-up singers that appear in other parts of the underlying work and that, if included in the mastertone would detract from its sonic attractiveness by making it sound fragmentary. This would occur, for example, where a previous vocal phrase directly preceding the “statement” phrase is embellished and extended to overlap with the beginning of the “statement” phrase (such as at 3 minutes, 16 seconds of the full recording). In this case, the presence of a simultaneous counter-melody would distract from the dominance and clarity of the statement and response phrases when occurring simultaneously.

Irreplaceable Mastertone Two

28. The second Irreplaceable mastertone (*see* track 3 of the Sony BMG CD (“Irreplaceable Mastertone Two”)) is derived from bars 17-21 of “Irreplaceable,” or seconds 44 through 54 of the song. Irreplaceable Mastertone Two is 10 seconds long and is an extension of Irreplaceable Mastertone One.⁸ Thus, the principal difference between Irreplaceable Mastertones One and Two is that the duration of Irreplaceable Mastertone Two is longer. The mastertone creator included the two phrases following the second

⁸ The music and lyrics of Irreplaceable Mastertone Two are attached in Exhibit C-1.

version of the hook — “I could have another you in a minute” / “matter of fact he’ll be here in a minute.” This determination is musically appropriate because it contains a symmetrically balanced structure of two phrases closely related to each other, followed by two separate phrases also closely related to each other (analytically, the form is: A-A’-B-B’).

29. The mastertone creator extended the mastertone further to include the phrase “baby,” a decision that demonstrates musical intelligence and sophistication. To understand why this decision is significant, it is necessary to discuss briefly the concept of a “scale degree,” which as explained above, describes the position within a musical scale of a particular tone or note. Under traditional principles of musical composition and melodic construction, some sequences of scale degrees are considered more musically logical than others. This is because, in any given note sequence, the scale degrees in that particular context create tension and release, as experienced by the listener. Other combinations that do not provide such tension and (most importantly) release would not be considered sonically pleasing. Had Irreplaceable Mastertone Two ended after the phrase “matter of fact he’ll be here in a minute,” it would have closed on a scale degree of six, with the IV chord in the harmony, which would not have provided a release and would therefore have violated general principles of music composition, rather sounding incomplete or unresolved. By including only the phrase “baby,” the mastertone creator ensured that the mastertone ended on a scale degree of five, and that the harmony changed to a I Chord, providing the musical “release.” Moreover, in the event that the mastertone were to loop as a result of the telephone continuing to ring, the final scale degree of the last phrase — “baby” — and the beginning scale degree of the first phrase

of the mastertone — “you don’t know ’bout me” — would create a “resolving” sequence, from scale degree five to one.

30. In the event of looping, the phrase “baby” would, under the above principles, act as a melodic bridge between the first and second repetitions of the song. Further, the inclusion of the phrase “baby” provides a seamless loop rhythmically, as this phrase ends on the first half of beat 1, and the phrase “you must not know ’bout me” begins on the second half of beat 1. Musical intelligence and sophistication are demonstrated in this choice to include a fifth phrase in Irreplaceable Mastertone Two, rather than including the first four phrases of Irreplaceable Mastertone One.

31. Like Irreplaceable Mastertone One, Irreplaceable Mastertone Two is a self-contained musical work. It includes a beginning section, which is composed of the two closely related “A” phrases: (A) “you must not know ’bout me” with the I chord in the harmony, and (A’) “you must not know ’bout me” with the V chord in the harmony. Following this is the middle section, composed of the two closely related “B” phrases: (B) “I could have another you in a minute,” and (B’) matter of fact, he’ll be here in a minute,” as the harmony progresses through the II and IV chords, respectively. Finally, the ending section comprises the phrase “baby,” which brings the previous “B” phrase to a melodic and harmonic resolution, ending the work on the I chord on the downbeat. It does not sound fragmentary and includes elements that would be found in a full-length work, such as two symmetrical pairs of phrases — the two versions of the hook and the two phrases that follow — plus a closing phrase, and within a traditional harmonic progression.

Irreplaceable Mastertone Three

32. The third “Irreplaceable” mastertone (*see* track 4 of the Sony BMG CD (“Irreplaceable Mastertone Three”)) is derived from bars 17-26 of “Irreplaceable,” or second 44 through 1 minute, 8 seconds of the song. It is 24 seconds long and contains the full Chorus 1 of the full-length work, which is comprised of Irreplaceable Mastertone Two and additional material containing two more iterations of the primary hook — “you must not know ’bout me,” followed by “I can have another you by tomorrow” / “so don’t you ever for a second get to thinkin’” / “you’re irreplaceable.”⁹

33. The selection of Chorus 1 from four possible versions of the chorus within the full-length work represents the artistic decision to include the purest, most distilled form of the chorus in the mastertone. Chorus 1 has no distracting secondary melodic lines and other variations that occur in subsequent choruses. By way of comparison, in Chorus 2, vocal material at the end of the section spills into the following section. For example, at 2 minutes, 6 seconds, the final lyric “irreplaceable” sung in the main vocal melody of Chorus 2 extends into the first bar of the following bridge section, and overlaps with a secondary vocal melody that begins at the end of Chorus 2 (with the lyric “irreplaceable”) and also continues into the bridge section. The effect of this overlapping of sections is that Chorus 2 is not self-contained. Similarly, Choruses 3 and 4 include embellishments that interfere with the clarity and purity of the main vocal melody and the structural independence of the material, and would sound like unbalanced, incomplete excerpts if they stood alone. For example, at 3 minutes, 26

⁹ The music and lyrics of Irreplaceable Mastertone Three are attached in Exhibit C-1.

seconds, the lyrics, “you can pack all your bags, we’re finished” overlap with “you must not know ’bout me,” which is audibly much more complex than Mastertone Three.

34. Finally, Irreplaceable Mastertone Three is a complete and musically balanced work that includes a beginning, middle, and an end. The beginning section is composed of five musically balanced phrases (“you must not know ’bout me,” / “you must not know ’bout me” / “I could have another you in a minute” / “matter of fact, he’ll be here in a minute,” / “baby”). The middle section begins by repeating the material from the beginning (“you must not know ’bout me,” / “you must not know ’bout me”), and continues by varying the following phrase (“I can have another you by tomorrow”). Then, rather than mirroring this phrase as in the beginning, the ending section takes over, with the phrase “so don’t you ever for a second get to thinkin’ your irreplaceable.” This phrase provides finality to the work, with a melody that builds to a climax of tension on the lyric “thinkin’” (on scale degrees three-two), then resolves with the very stable and conclusive series of scale degrees, five-five-five-seven-one-one, sung to the title lyrics “you’re irreplaceable.” This closing section brings the work “home” both melodically and harmonically.

Sony BMG Guidelines

35. In addition to performing the analysis I described above, I also reviewed the Sony BMG Guidelines to analyze the musical composition criteria contained therein and to consider whether the mastertones on the Sony BMG CD are consistent with those criteria.

36. The Sony BMG Guidelines, attached as Exhibit E, provide mastertone creators at Sony BMG with certain guidance concerning how to create a

mastertone and set forth certain judgments made by Sony BMG as to the musical and creative characteristics that a mastertone should embody.¹⁰ Thus, the Sony BMG Guidelines discuss (1) how to choose the relevant passages of a recording for a mastertone; (2) how to choose between different versions or iterations of the segment chosen; (3) how to “frame” the segment so that the mastertone is sonically pleasing, and (4) how to create mastertones that are intended to loop.¹¹ As expressly stated in the Sony BMG Guidelines, the goal of the creator should be to create a mastertone that is an “indivisible musical unit” and, where possible, “musically balanced” and “hermetically sealed,” and that does not sound like a “fragment[]” of something else. *Id.* at 10316-17.

¹⁰ The Sony BMG Guidelines are dated August 21, 2007 and were authored by Tim Nilson, Vice President, Mobile Technology, Sony BMG Music Entertainment and are “intended to be used by internal staff and to give [Sony BMG] partners a better understanding of how mobile media [including ringtones] [are] produced at Sony BMG.” *See* Sony BMG Guidelines, Exhibit E at RIAA 10313. Based on the content contained herein, it is clear that the author of the Sony BMG Guidelines has musical training and knowledge of musical composition.

¹¹ I note that the Sony BMG Guidelines state that to the extent that the mastertone needs to be lengthened or shortened to fit a particular phone manufacturer’s specifications, the end-point of the mastertone may ultimately be determined by a computer software program, called the transcoder. I further understand from the Sony BMG Guidelines that the transcoder would do so after the mastertone creator has input the edit points and “target data” that he or she selected in accordance with the criteria of the Sony BMG Guidelines. *Id.* at 10316.

37. To that end, the Sony BMG Guidelines first provide that the creator choose the appropriate segment of the sound recording as the base of the mastertone according to whether or not it contains a “quintessential element of the composition.” Thus:

Section 4.1 Relevant Excerpts

The first and most important criteria of digital audio ringers, or what we refer to as “Mastertones,” is that they contain the quintessential element of the composition. In pop terminology this is often referred to as the “hook,” called this because it functions to be the theme that hooks you into the structure of the composition. The hook is repeated from one to several times throughout the composition, and in this way creates a framework for musical development and embellishment. . . .

See id. at RIAA 10314.

38. Next, the Sony BMG Guidelines discuss the musical characteristics to consider when determining which iteration of the segment to use, namely that the chosen segment clearly illustrates the theme of the composition. Thus:

Section 4.2 Choosing the Right Iteration:

Although you may find the hook peppered throughout the composition, all iterations are not equal For ringtones, we want the distilled version of the theme in its most recognizable form. This is almost always either the 1st or 2nd iteration. In the case of many songs, such as with many contemporary R&B tracks, the second iteration is already too embellished to clearly illustrate the theme. In other tracks it takes until the second iteration for the dynamic or orchestration to develop enough to present a full exposition of the theme. . . .

See id. at RIAA 10314-15.

39. The Sony BMG Guidelines provide further guidance on how to choose when to begin and conclude the mastertones, again focusing on Sony BMG’s

desire to create mastertones with a clear presentation of theme, *i.e.*, those that are not musically embellished or complex. Thus:

Section 4.3 Framing:

Once an area of the recording has been chosen, it is then necessary to begin choosing individual in and out points for each edit. . . . [A] clean entry of the theme is sought whenever possible, without any preceding material such as lines from the previous hook, or pre-chorus, or developmental instrumentation such as drum fills. These things tend to confuse the presentation of the theme without the context of the entire song being there. . . .

See id. at RIAA 10315.

40. With respect to creating mastertones that are “perfect loops,” the Sony BMG Guidelines express Sony BMG’s desire for the loop to have a musically smooth transition from back to front, requiring the creator to edit the loop in such a way to achieve this goal. Thus:

Section 4.7 Sample Surgery:

The most time consuming aspect of the edits is the perfect loop[s] We are looking to meet the same general criteria as listed above, but with a few additional parameters: Loops should match the meter grouping of the phrase systems. 2 measure phrases should have a loop that is 2 measures. . . . In order to make loops consisting of whole measure lengths, the position of the outpoint in the meter must be matched to the position of the in point in its respective meter. . . . The transition from the back to the front of the loop should be as smooth as possible. . . .

See id. at RIAA 10317-18.

41. Each of the criteria described above represents musical and creative judgments by Sony BMG as to how best to achieve its goal to create “musically

balanced” and “hermetically sealed” mastertones — a goal achieved by Sony BMG with respect to the mastertones on the Sony BMG CD, as I discuss below.

Conclusions

42. As the above analysis illustrates and my review of the remaining mastertones on the Sony BMG CD confirms, the creation of mastertones involves several steps requiring musical judgment and creativity.¹² The end product — the mastertone itself — is not simply a fragment of the recording from which it was derived, but instead represents a complete, musically balanced composition, a result that could not be achieved by a mere mechanical excising of an excerpt of a sound recording.

The Creation of Mastertones Involves Creativity

43. The creation of mastertones is not a rote process. Rather, it involves a combination of many of the same creative decisions used to create any other musical work that is musically balanced and complete.

¹² Although I have only discussed in detail my analysis of three of the mastertones on the Sony BMG CD, I have performed substantially the same analysis for all of the mastertones contained on that CD, and have also performed such analysis on the mastertones from the recordings, “Hollaback Girl,” performed by Gwen Stefani and “Gimme Shelter,” performed by The Rolling Stones. Of course, each mastertone is different — for example, some mastertones are created using a passage that is not the hook of the song. Consequently, although the creative steps I discuss below were involved in the creation of all of the mastertones studied, the specific creative steps may differ for each mastertone — for example, where the hook of the original song is not used for the mastertone, the mastertone creator would not necessarily have needed to identify the particular iteration of the hook. The charts attached as Exhibits F-1 through F-9 set forth the principal bases for my conclusions with respect to one mastertone for each sound recording analyzed in connection with this report.

44. First, the creator must determine which segment of the sound recording to use for the mastertone in order to distill the essence of a song of typically four minutes' duration into a mastertone of a length varying between approximately 4-45 seconds. This is no easy feat. It requires musical insight, creativity, and acute aural sensitivity. A creator has many musical candidates from which to choose. As I illustrated above with respect to the full-length recording discussed in detail in my analysis section, many songs have a primary "hook" — meaning the signature phrase usually (but not always) associated with the song's title lyrics — and also contain secondary hooks and other recognizable passages. Because these segments of the work are by definition recognizable and thus will on their own evoke to the consumer the underlying work, the decision as to which segment to use for a mastertone represents a creative judgment made by its creator. This point is further supported by the fact that in the market today, there may be multiple mastertones created from the same underlying recording, as was the case with the song analyzed in detail above, "Irreplaceable."

45. Second, once the creator determines whether to use the primary hook, the secondary hook or another recognizable segment of the work, the creator must next choose which version or versions of that particular segment to use for the mastertone. The very nature of a hook or recognizable passage requires that it be used repeatedly in a song, sometimes as many as sixteen times as in the case of "Irreplaceable." Although some of these iterations may be identical to one another, more often they include variations such as instrumental coloring, back-up secondary melodies and lyrics, and changed rhythmic positions and harmonic support. A songwriter typically varies the hooks and recognizable passages in order to create interest and avoid

monotony. In summary, the hook can range in character from its purest form to a complex version of its former self, complete with competing counter-melodies sung by back-up singers. Again, the decision by the mastertone creator as to which iteration to use is a creative one requiring musical judgment as to which will best achieve the goal of the creator. In the case of Sony BMG, as described in the Sony BMG Guidelines, it sought mastertones that most clearly present the truest essence of the underlying work — a goal best achieved by choosing the hook that is most musically pure.

46. Third, the creator chooses how to edit the mastertone. By this I mean that the creator decides precisely where to begin and end the mastertone, in terms of exactly which material to include, whether or not to include silences that may occur at the beginning or end of the passage in the source recordings, and whether or not to include introductory material, such as instrumental playing that is a prelude to the hook iteration, as well as other elements. As I have analyzed in detail above, there is no simple formula for editing the work. Rather, in order to make such determinations, the creator must exercise several musical judgments from a constellation of possibilities as to what composition will result in a pleasing listening experience. Indeed, illustrative of the creative choices made is the fact that numerous other segments of recordings would not make musically balanced mastertones that are sonically pleasing to the listener. In addition, because mastertones may ring on a mobile device more than once a creator must also compose those mastertones in such a way that the endpoint of the mastertone and the beginning point of the mastertone blend harmonically, rhythmically, and structurally so that there is musical flow as the mastertone loops.

Mastertones are Musically Balanced Musical Compositions

47. Each of the mastertones that I have analyzed in connection with this report (as more specifically identified above and in the attached exhibits) is musically balanced, independent, and contains many of the same fundamental technical elements that constitute full-scale musical works. While they derive from longer musical works, they have been transformed into independent musical compositions possessing their own aesthetic integrity, and are compositions that, as free-standing units, differ substantially from their source recordings. In certain circumstances, in mastertones that loop, the end result of the looping is that the mastertone structure is transformed to a new structure different from that of the underlying recording. By this, I mean that the mastertone, when looping, creates musical phrases that follow each other in a manner unintended by the songwriter of the underlying composition. Moreover, the mastertones encompass many of the attributes contained within longer compositions. By this, I mean that the mastertones contain melodies, harmony, structure, lyrics, tension and resolution, musical style, and character. Further, they maintain the basic principles of music composition, such as adhering to established chord progressions and form. Significantly, mastertones also contain one of the most fundamental design tenets of musical composition: a beginning, middle, and an end.

48. It is important to note that brevity does not negate musical completeness or substance. Many composers who ordinarily wrote works of average length, sometimes chose to write extremely brief works for particular purposes, including Beethoven, Mozart, and Chopin. Despite their brevity, these works are nonetheless considered master works. In addition, there is a long history of composers writing

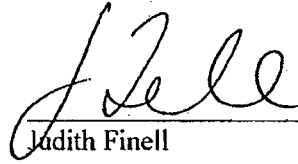
variations and suites based on other works by themselves and their colleagues. This practice extends back to the use of Gregorian chants and other ancient music. Modern luminaries, including Leonard Bernstein (“West Side Story Suite”) and Aaron Copland (“Billy the Kid Suite”), have used fragments of their own and others’ works, crafting them into fully independent, separate musical compositions. In the end, these works, despite their derivation from prior works, stand on their own as complete and creative musical compositions.

49. In sum, mastertones are not mere “excerpts” of sound recordings created through a rote or mechanical editing process. On the contrary, mastertones contain the very characteristics considered by musicologists in determining whether or not a work is a complete musical composition. As a result, they do not sound like simple fragments, or incomplete phrases, ripped from lengthier ones. Despite their actual ancestry, they have become independent “emancipated” works through a creation process involving musical skill, originality, and creativity.

Declaration

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 3, 2008



Judith Finell

Errata to the Expert Report of Judith Finell

On page 19, paragraph 29, the text reads: "By including only the phrase 'baby,' the mastertone creator ensured that the mastertone ended on a scale degree of five, and that the harmony changed to a I Chord, providing the musical 'release.'" The text should read: "By including the phrase 'baby,' the mastertone creator ensured that the mastertone ended on a scale degree of five, and that the harmony changed to a I Chord, providing the musical 'release.'"

Exhibit C-5: Pages 5-9 of the sheet music of "My Love" were inadvertently omitted. The omitted pages are attached hereto.

Exhibit C-7: The bar number for the beginning of the mastertones reads "19." The bar number should read "48."

Exhibit C-9: Two pages of Exhibit C-9, attached hereto, have been corrected to (1) accurately show the melodic line of a portion of the original sound recording of "Gimme Shelter" and (2) accurately show the melodic line of the mastertone derived from "Gimme Shelter."

JUDITH FINELL MUSICSERVICES INC.

Consulting • Research • Music Copyright Matters • Music Industry Support

Judith Greenberg Finell

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Education

M.A. Musicology, University of California, Berkeley. Specialization: 20th Century Music. Also research on 17th and 18th century French opera.

B.A. Music Performance (Piano). University of California, Los Angeles (UCLA).

Professional Experience

President, Judith Finell MusicServices Inc. (New York City): 1976 - Present

Present concentration is in the copyright infringement field, providing consulting, trial preparation, and expert testimony for attorneys, recording and publishing companies, advertising firms, entertainment, and computer companies. Services include musical analysis and comparisons, research into prior art, consulting with advertising agencies on the use of music in their campaigns, and with computer companies when they are preparing music education software. In addition, law firms representing parties in personal injury claims involving the loss of a musician's career consult on career evaluations, and often ask Judith to testify on this.

Judith Finell MusicServices Inc. was founded in 1976 as a consultation and project development service, initially for classical composers, musicians, and arts organizations requiring a wide variety of career and business advice. Areas covered included promotion, audience development, organizing concert tours and festivals, fund raising, repertoire, publishing, and recording. In addition, writing and design services were available in the preparation of publicity and brochures, arts publications, program and liner notes, proposals, and arts reports. Services soon expanded to the concert production field, including concerts held in major New York halls, including Carnegie Hall and Lincoln Center.

Clients have included Itzhak Perlman, Pinchas Zukerman, Boston Symphony Orchestra, New York New Music Ensemble, artists of the Metropolitan Opera, as well as Michael Jackson, Julio Iglesias, Sony/CBS, and major advertising agencies and law firms. Ms. Finell often appears on Court T.V. regarding music copyright lawsuits, and has been featured in a television documentary hosted by Maria Shriver discussing musical education for children. Ms. Finell was also the musical advisor for a video production promoting ethics entitled *Kids for Character*. This received international recognition and awards, including a humanitarian award from B'nai B'rith. From 1993-present, Ms. Finell has been the musical advisor to the television series *Barney and*

Friends, which has included consultations on the PBS series, musical publications, recordings, movies, and live shows at Radio City Music Hall.

In March, 1999, NYU presented Ms. Finell in a graduate workshop on intellectual property concerning the future of music copyright in the electronic era where she discussed copyright challenges posed by the electronic age.

Prior Work

Director of Publications and Information Center, American Music Center (New York City): 1975 - 76

Responsibilities included supervising the compilation, editing, publication, promotion, and distribution of all American Music Center books. This position also included advising composers, performers, and musicologists on publishing, repertoire, fund raising, and recordings. Established and organized a musical manuscript lending library, compiled and published 11,000-title music catalog.

Program Director of Directory Project, American Music Center: 1974 - 75

Responsibilities included compiling and supervising the research and publication of *The Contemporary Music Performance Directory* - a 200 page resource for composers and performers. Responsibilities also included raising \$40,000 in order to publish and promote the book.

Music Career and Management workshops (New York City): 1984 - 90

Taught workshops for conductors, composers, managers, and other musical artists and administrators on various subjects including "Career Development," "Fund Raising," "Publicizing a Concert," "Marketing Yourself," and "The Business of Music." Students included emerging and established artists as well as recent graduates of Juilliard School of Music and Manhattan School of Music.

Director of Research, Joseph Boonin Music Publications (New Jersey): 1971 - 73

Responsibilities included designing and editing advertising for professional musicians, musicologists, and librarians, creating access to the college music textbook market, recommending textbooks and new music editions to college professors and music librarians, and copy editing and rewriting musicology textbooks.

Freelance Music and Book Editor: 1972 - 79

Edited music and music textbooks for various publishers, including G. Schirmer Inc., Theodore Presser Co., Editions Salabert, and Alexander Broude, Inc. Edited music in all performance categories: instrumental, vocal, choral, band, orchestral, and electronic, working with both traditional and new notation.

Teacher: Pittsburg Senior High School (Pittsburg, California): 1970 - 71

Subjects taught: chorus, guitar, drama.

Publications

Interview of Judith Finell published in *New York Times*, August 1995.

"Musicologist Takes a Look at Recent Court Rulings," *New York Law Journal*, May 1992. Published in a 3-part series, this article discussed approaches to digital sampling, sound-alike, and advertising cases.

"Using an Expert Witness in a Music Copyright Case," *Entertainment Law Reporter*, September 1990. Lead article.

"Using an Expert Witness in a Music Copyright Case," *New York Law Journal*, May 1990. Published in a 3-part series, this article outlined the ways in which a music expert can assist an attorney through all stages of a lawsuit.

The Contemporary Music Performance Directory. New York: American Music Center, 1975. 250 pages. A descriptive listing of 550 performing ensembles, 660 sponsoring organizations, 350 performing facilities, and 200 concert series and festivals of contemporary music. Emphasis is on chamber music, jazz, and experimental music. Included are detailed descriptions of the activities of performing ensembles, exact budgetary and grant information on sponsors, and fund raising recommendations. Funded by the New York State Council on the Arts and the National Endowment for the Arts.

The Works of Lukas Foss: Biography and Catalog. New York: Editions Salabert, 1976. 20 pages.

The Works of Erik Satie: Biography and Catalog. New York: Editions Salabert, 1976. 20 pages.

The American Music Center Library Catalog of Choral and Vocal Works. New York: American Music Center, 1975. 200 pages.

The Works of Arthur Honegger: Biography and Catalog. New York: Editions Salabert, 1974. 20 pages.

Twentieth Century Piano Music by American Composers. Hackensack, New Jersey: Joseph Boonin, Inc., 1973. 25 pages.

Speaking Engagements

Guest Speaker, Association of Independent Music Publishers (AIMP), N.Y.: 1996, 1993.

Guest Lecturer, Fordham Law School.

Guest Speaker, Copyright Law Department, Davis & Gilbert, NY: 1989. Presentation included explanation of musical terminology, definition and illustration of key musical elements for musical comparisons in copyright infringement actions, demonstration of my methodology for analyzing and comparing pieces of music.

Guest Speaker, Copyright Society of the U.S.A., NY: 1996, 1987. Presentation to an audience of copyright lawyers on musical comparisons and analysis techniques, digital sampling, and drawing conclusions of possible infringement.

Panelist, National Music Publishers' Assn., NY: 1995, 1987. Panel for copyright administrators at music publishing companies and record companies. Topic involved the way in which a music expert analyzes and concludes whether music might have been copied.

Speaker, American Institute of Music Studies: 1981 - 84. Subjects addressed to young opera singers included: "Selling Yourself," "Marketing a New Artist," "The Business of Music," and "How to Have a Career in Europe."

Lecturer, National Congress of Women in Music, New York University: 1981. Panel discussion on alternative career opportunities in the music field.

Lecturer, American Music Center: 1980. Discussion on promotion and fundraising for performing ensembles, composers, and administrators.

Moderator, Panel at Music Library Association Convention (Boston, MA): 1979. Panel discussion on alternative publishing and recording possibilities in contemporary concert music.

Memberships

Copyright Society of the USA

Presently on FA(C)E Music Committee - dealing with music copyright issues in electronic media
Trustee, 1994 - '96 Co-Chairman, 1993 Annual Conference

American Music Center

Association of Independent Music Publishers

Member of nominating committee for Board of Directors, 1993

Entertainment Law Circle

B'nai B'rith section on music and performing arts

Women in Music, New York chapter

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Publications by Judith Finell on Intellectual Property Topics

New York State Bar Association Entertainment, Arts and Sports Law Section Journal, "Scandalous Notes: A Musicologist Discusses New Developments in Music Technology That Challenge Copyright Attorneys and Expert Witnesses," Special Edition 2008, Vol. 19, No. 1.

New York State Bar Association Entertainment, Arts and Sports Law Section Journal, "The Outer Reaches of Copyright Protection: Creative Arts, Style and the Law," Fall/Winter 2002, Vol. 13, No. 3.

Thomson & Thomson's Client Times, "Using an Expert Witness in a Music Copyright Case," Volumes.1 and 2, 2001.

The New York Times, "Westchester Q&A: Judith Greenberg Finell. Name That Tune, and Prevent a Rip-Off," August 27, 1995.

New York Law Journal, "Musicologist Takes Look At Recent Court Rulings," Part One of Three, May 15, 1992.

New York Law Journal, "How A Musicologist Views Digital Sampling Issues," Part Two of Three, May 22, 1992.

New York Law Journal, "A Musicologist Discusses Disguised Infringement," Part Three of Three, May 29, 1992.

New York Law Journal, "Using an Expert Witness in a Music Copyright Case," May 4, 11 and 18, 1990.

In preparing the attached report, I considered the following materials:

Published sheet music and transcriptions that I prepared, attached as Exhibits C-1 through C-9

Sound recordings and mastertones contained on the CD attached as Exhibit D

Sony BMG CD (CD Exhibit to RIAA Trial Exhibit 63)

Sony BMG Guidelines (RIAA 10311-10320)

Oral testimony of J.J. Rosen (2/14/08 Tr. at 3506:11-3551:01)

Written Direct Testimony of J. J. Rosen, dated November 29, 2006

Introductory Memorandum to the Written Direct Statement of the Recording Industry Association of America, Inc., dated November 30, 2006

In re Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding, Docket No. RF 2006-1, dated October 16, 2006

Initial Brief of National Music Publishers' Association Inc., Songwriters Guild of America, and Nashville Songwriters Association International in Response to Referral to the Register of Copyrights of Questions of Law Regarding Ringtones, dated September 6, 2006

Brief of Recording Industry Association of America, Inc. Addressing Novel Questions of Law on Referral to the Register of Copyrights, dated September 6, 2006

Reply Brief of National Music Publishers' Association Inc., Songwriters Guild of America, and Nashville Songwriters Association International in Response to Referral to the Register of Copyrights of Questions of Law Regarding Ringtones, dated September 13, 2006

Reply Brief of Recording Industry Association of America, Inc. Addressing Novel Questions of Law on Referral to the Register of Copyrights, dated September 13, 2006

Notes

Transcription Exhibits

The timings shown at the top, right corner indicate the timing locations within the full source recording from which the mastertone has been derived. CD 1 refers to the Sony BMG CD. CD 2 refers to the CD submitted as Exhibit D to my statement.

The number directly above the musical staff (for example "17" in CD 1, Track 2) indicates the bar number in the source song from which this mastertone has been derived.

Small noteheads accompanied by lyrics in parentheses (for example in CD 1, Tracks 19-21) indicate secondary vocal material.

An "x" notehead (for example in CD 1, Track 23) indicates that this material is spoken rather than sung.

CD 2, Tracks 1-2:

The downward and upward pointing stems of notes indicate two different voices performing this material.

CD 2, Track 2:

The source recording from which this mastertone was derived contains a quarter note rhythm on beat 1 of bars 67 and 69, spoken to the lyric "sh*t." This is not found on the mastertone. It appears that the mastertone was derived from a radio version of the song, rather than the version released on CD, which includes explicit lyrics.

CD 2, Track 2:

This mastertone is repeated consecutively, with a slight pause between each repeat. The fourth and final repeat is incomplete, ending on beat 1 of bar 68 (lyric "A") at 30 seconds. I understand that this mastertone was recorded from a mobile phone, and therefore repeats as the mobile phone continues to ring.

CD 2, Tracks 3-4:

The pitches indicated in the main vocal melody are sung somewhat imprecisely on the recording.

CD 2, Track 4:

This mastertone is repeated twice consecutively, followed by a brief pause, then repeated twice consecutively again. The fourth and final repeat is incomplete, ending on beat 3 of bar 35 (lyric "shot") at seconds :30. I understand that this mastertone was recorded from a mobile phone, and therefore repeats as the mobile phone continues to ring.

Sheet Music Exhibits

The brackets indicate the location in the full source song from which the mastertone has been derived.

The timings indicated within the brackets indicate the timing locations within the full source recording from which the mastertone has been derived.

The corrections indicated by hand written markings indicate the discrepancies between the recording and the sheet music in the portion corresponding to the mastertone.

CD 1, Tracks 22-24:

The singer of the recording of "SexyBack" (Justin Timberlake, CD 1, Track 22) has a vocal style in which the pitches are imprecise and implied. Therefore, there are pitch discrepancies between the published sheet music and the transcriptions for the mastertones (CD 1, Tracks 23 and 24) associated with the source song (CD 1, Track 22).

CD 2, Track 1

As there was no published sheet music available for the full recording of "Hollaback Girl," this transcription of bars 66-74 was prepared, which sufficed for the purposes of analysis of the corresponding mastertone.

CD 2, Tracks 3-4:

The pitches indicated in the main vocal melody are sung somewhat imprecisely on the recording.

IRREPLACEABLE

Words and Music by SHAFFER SMITH,
BEYONCÉ KNOWLES, TOR HERMANSEN,
MIKKEL ERICKSEN, ESPEN LIND and ARMUND BJÖRKLUND

Moderate Pop.

Chord diagrams: Bb5, F5, Cm7(add4), Eb6, Bb5, F5, Cm7(add4)

To the left, to the left. To the left, to the left.

mf

Mmm. To the left, to the left.
So go a-head and get gone. and

Ev-ry-thing you own in the box to the left. call up that chick and see if she's home. In the closet, that's my stuff. Yes. Oops! I bet you thought that I did-n't know.

CD1, TRACK 1, P 1/8

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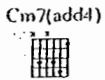
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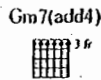
if I bought it ba-by, please don't touch! And keep talk-in' that mess. that's fine. but
 What did you think I was puttin' you out for? Be-cause you was un-true!



could you walk and talk at the same time? And
 Rol - lin' her a - round in the car that I bought you.



it's my name that's on that Jag. so re-move your bags. Let me call you a cab.
 Ba - by, you drop them keys! Hur-ry up be - fore your tax - i leaves.



Stand - in' in the front yard tell - in' me how I'm such a fool, talk - in' 'bout

CD1 TRACK 1, P 2/R

Ebmaj7 D7(b9) Cm7(add4) F5

how I'll nev-er, ev-er find a man like you. You got me twist-ed.

Bb F

— You must not know 'bout me. — you must not know 'bout me. — I could have an -

Cm7(add4) Eb6

oth-er you — in a min-ute. Mat-ter of fact, he'll be here — in a min-ute. ba-by —

Bb F

— You must not know 'bout me. — you must not know 'bout me. — I can have an -

CD1, TRACK 1, P 3/8

Cm7(add4)



1.

Em



oth - er you _ by to - mor - row. so don't you ev - er for a sec - ond get to think -

||2.

Em



- in _ you're ir - re - place - a - ble. ev - er for a sec - ond get to think -

F



- in _ you're ir - re - place - a - ble.

Emaj7



F



So since I'm not your ev - ry - thing. _ how a - bout I'll _ be

CD1, TRACK 1, p 4/8

Bb F7/A Gm F

noth - ing. noth - ing at all to you? Ba - by. I won't shed a

C Eb6

tear for you. O won't lose a wink of sleep.

F

cause the truth of the mat - ter is. re - plac - ing you is so eas - y.

Bb5 F5

(To the left. to the left.

C.D.I. TRACK 1, p 5/8

Cm7(add4)

Elm(add2)

To the left, to the left. Mmm.

Bb5

F

To the left, to the left. Ev-ry-thing you own in the box to the left.

Cm7(add4)

Elm(add2)

To the left, to the left.) Don't you ev er for a sec - ond get to think -

Bb

- in you're ir - re - place - a - ble. (You must not know bout me. you

F



Cm7(add4)



must not know 'bout me.) I could have an - oth - er you in a min-ute. Mat-ter of fact.

E♭6



B♭



he'll be here in a min-ute. ha - by. (You must not know 'bout me. you

F



Cm7(add4)



must not know 'bout me.) I can have an - oth - er you by to-mor-row. so don't you

E♭m



B♭



ev - er for a sec - ond get to think - in (You must not know 'bout me. you

CD1, TRACK 1, P 7/8

F Cm7(add4)

must not know 'bout me.) I can have an - oth - er you in a min-ute. Mat-ter of fact.

E♭6 B♭

he'll be here in a min-ute. You can pack all your bags. We fin-ished! 'Cause you
(You must not know 'bout me. you

F E♭6

made your bed. now lay in it. I could have an - oth - er you by to-mor-row. Don't you
must not know 'bout me.)

F5 B♭

ev - er for a sec - ond get to think in you're ir - re - place - a - ble.

CD 1, Track 2
0:44-0:48

"Irreplaceable" (Mastertone)
Performed by Beyoncé

17

The image shows a single line of musical notation on a five-line staff. The notation is in a treble clef with a key signature of one flat (B-flat) and a 4/4 time signature. The melody consists of eighth and quarter notes. Below the staff, the lyrics "You must not know 'bout me, you must not know 'bout me." are written, with horizontal lines under the words "me," and "me." to indicate the pitch contour of the melody.

3

Ebmaj7 Dm7 Cm7(add4) F5

how I'll nev-er, ev-er find a man like you. You got me toget-her.

Bb F

You must not know how I feel, you must not know how I feel. I could have en-

Cm7(add4) :44 Eb6 :48

sh-ed you in a min-ute. Min-utes of fact, he'll be here in a min-ute, ba-by.

Bb F

You must not know how I feel, you must not know how I feel. I can have en-

CD 1, TRACK 2

CD 1, Track 3
0:44-0:54

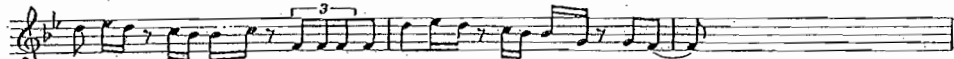
"Irreplaceable" (Mastertone)

Performed by Beyoncé

17



Musical notation for the first line of the song, featuring a treble clef, a key signature of one flat (B-flat), and a 4/4 time signature. The melody consists of eighth and quarter notes. The lyrics are: "You_ must not know 'bout_ me, you_ must not know 'bout_ me. I could have an-



Musical notation for the second line of the song, featuring a treble clef, a key signature of one flat (B-flat), and a 4/4 time signature. The melody includes a triplet of eighth notes. The lyrics are: "oth-er you in a min-ute. Matter of fact, he'll be here in a min-ute, ba-by.---

3

Ebmaj7 Dm7 Cm7(b9) F5

how I'll nev-er, ev-er find a man like you. You got me twist-ed.

Bb F

You must not know 'bout me, you must not know 'bout me. I could have as-

Cm7(b9) : 44 Eb6

ash - er you - to a min-ute. Mist-ke of fact, he'll be here. In a min-ute, ba - by.

Bb F

You must not know 'bout me, you must not know 'bout me. I can have as-

:54

CD 1, TRACK 3

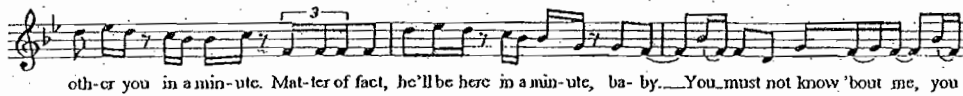
"Irreplaceable" (Mastertone)

Performed by Beyoncé

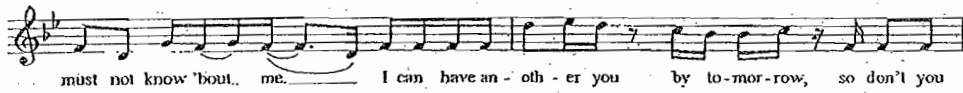
17



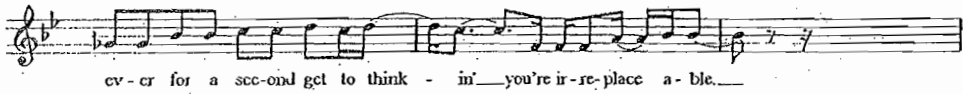
You must not know 'bout me, you must not know 'bout me. I could have an-



oth-er you in a min-ute. Mat-ter of fact, he'll be here in a min-ute, ba-by. You must not know 'bout me, you



must not know 'bout me. I can have an-oth-er you by to-mor-row, so don't you



ev-er for a sec-ond get to think - in' you're ir-re-place a-ble.

3

E7(b9)7 Dm7 Cm7(b6) F5

how I'll nev-er, ev-er find a man like you. You got me twist-ed.

Bb F

— You must not know 'bout me, you must not know 'bout me. I could have an-

Cm7(b6) :44 Eb6

mb - er you in a min-ute. Mat-ter of fact, he'd be here in a min-ute. In - by.

Bb F

— You must not know 'bout me, you must not know 'bout me. I can have an-

CD 1, TRACK 4

113

Authorized for use by JMC

4

Cm7(add11) E1m

oh - er you... by in-me-rose, to don't you ev - er for a see - ond get to think -

1/2 E1m

- in' you're ir - re-place - a - ble, ev - er for a see - ond get to think -

F

- in' you're ir - re-place - a - ble

E1m1/2 F

So since I'm not your ev - 'ry - thing.. how a - bout I'll be

CD 1, TRACK 4

p 2/3

Authorized for use by J&J

IRREPLACEABLE

Words and Music by SHAFFER SMITH,
BEYONCÉ KNOWLES, TOR HERMANSEN,
MIKKEL ERICKSEN, ESPEN UND and ARMAUND BJÖRKLUND

Moderate Pop

The musical score is written for guitar and piano. It consists of three systems of music. The first system shows the guitar part with chords Bb5, F5, and Cm7(add11) and the piano part with the lyrics "To the left, to the left." The second system continues the guitar part with chords F5 and Bb5, and the piano part with the lyrics "Mmm... To the left, to the left. So go a-head and get gone, and". A time signature of 1:08 is indicated between the systems. The third system shows the guitar part with chords F5 and Cm7(add11) and the piano part with the lyrics "Ev-ry-thing you own... In the box to the left. In the clos-et, that's my stuff. Yes, call up... that chick and see if she's home. Does it bet-ter you thought that I did-n't know."

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CD 1, TRACK 4

p 3/3

Authorized for use by Judith Finell

...Baby One More Time

Words & Music by Max Martin

♩ = 96

N.C.

Oh ba - by, ba - by.

Drums

Oh ba - by, ba - by.

Cm

F7

E^b

1. Oh ba - by, ba - by. how was I sup posed to know that.
(Verse 2 see block lyric)

CD1, TRACK 7, P 1/5

Fm G Cm G7

some - thin' was - n't right here? Oh ba - by, ba - by I should - n't have let you go.

Eb Fm G7 Cm

And now you're out of sight yeah. Show me how you want it

G7 Eb Fm G7 Cm

to be. Tell me ba - by cos I need to know now what we've got.

F7 Eb

My lone - li - ness is kill - in' me and I I must con - fess I

















still be lieve— still be lieve— When I'm not with you, I lose my mind. Give me a sign.



hit-me ba-by one more time. hit me, ba-by one more time.



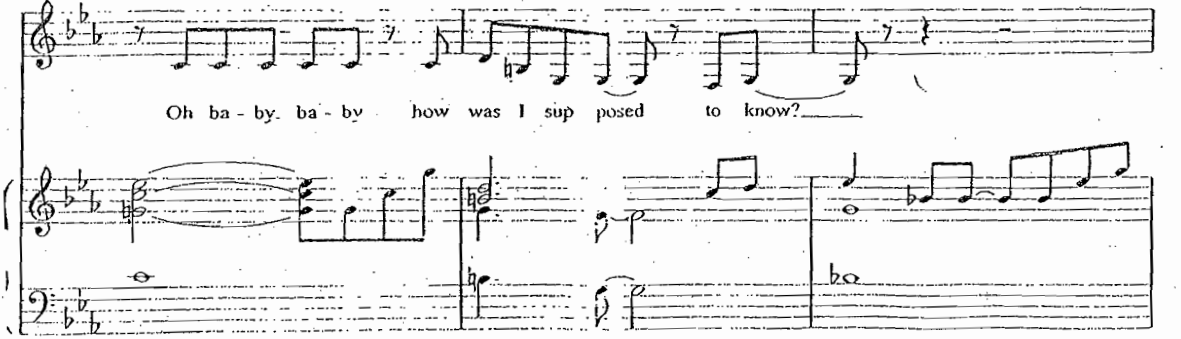


Oh ba by,ba-by. Oh,oh— Ohba by,ba-by. Ah—yeah,yeah.






Oh ba-by. ba-by how was I supposed to know?



F^m Gsus⁴ G A^b B^b

Oh pret - ty ba - by I should - n't have let you go.

Fm⁷ A^b B^b Cm

I must con - fess that my lone - li - ness

G⁷ E^b Fm Gsus⁴ G

is kill - in' me now don't you know I still be lieve

A^b D^b A^b maj⁷ E^b/G Fm B^b G⁷/B

that you will be here and give me a sign. Hit me ba - by one more time.

Cm G7 Eb

My lone - li - ness is kill - in' me and I I must con - fess I

Fm Gsus4 G Cm G7 Ab Bb

still be - lieve... still be - lieve... When I'm not with you I lose my mind. Give me a sign,

1. 2.

Eb Fm G Cm Cm Cm N.C.

hit me ba - by one more time. Hit me ba - by one more time.

Verse 2:
 Oh baby, baby
 The reason I breathe is you
 Boy you got me blinded.
 Oh pretty baby
 There's nothing that I wouldn't do
 It's not the way I planned it.

CD 1, TRACK 7, P 5 | 5

Show me how you want it to be

Authorized to use by BMI in Perm

CD 1, Track 8
0:42-0:53

“...Baby One More Time” (Mastertone)
Performed by Britney Spears

18

My lone-li-ness is kill-in' me and I must con-fess I still be-lieve, (I still be-lieve.)

F#m G#m Cm G#m

some-thing was - n't right here? Oh ba-by, ba-by I should - n't have let you go.

E#m F#m G#m Cm

And now you're out of sight, yeah. Show me how you want it

G#m E#m F#m G#m Cm

to be. Tell me ba-by not I need to know now what we've got.

F#m E#m

My love - li - ness is kill - ing me and I want con - fess

:42

Authorized for use by Youth Fling

CD 1, TRACK 8
p1/2

Fm *Poco* F Cm G A^b D^b
 still be here. (I still be here.) When I'm not with you I lose my mind. Give me a sign.

53

Fm G Cm A^b D^b Fm
 hit me ba-by one more time. hit me ba-by one more time.

Gm
 Oh ba-by, ba-by. Oh, oh. Oh ba-by, ba-by. Ah... yeah yeah.

Cm G
 Oh ba-by, ba-by how was I supposed to know?

Authorized for use by Judith Fitch

CD 1, Track 9
0:42-1:05

"...Baby One More Time" (Mastertone)

Performed by Britney Spears

18



My lone-li-ness is kill-in' me and I, I must con fess I still be lievè, (I still be- lieve.)



When I'm not with you I lose my mind. Give me a sign,



hit me ba - by one more time. Oh ba - by, ba - by

Fm G Cm G

some-thing was-n't right here? Oh ba-by, ba-by I should-a' have let you go.

F#m Gm G7 Cm

And now you're out of sight yeah. Show me how you want it

G7 F#m G7 Cm

to be. Tell me ba-by cos I need to know now what we've got

F#m F#m

My love-ly-ness is kill-in' me and I I must con-less

:42

Authorized for use by Jingles First

C.D. 1, TRACK 9
p1/3

Fm Fm^b F Cm G^b A^b D^b

still be here. (I still be here...) When I'm not with you I lose my mind. Give me a sign.

E^b Fm G^b Cm Abac^b F Cm

hit-me ba-by one more time. hit me ba-by one more time.

Gm^b

Oh ba-by, ba-by. Oh, oh Oh ba-by, ba-by. Ah... yeh yeh.

Cm G^b

Oh ba-by, ba-by how was I sup posed to know?

Authorized for use by Judith Finckl

CD1, TRACK 9

p 2/13

...Baby One More Time

Words & Music by Max Martin

$\text{♩} = 96$
N.C.

The musical score is written for voice, piano, and drums. It features a key signature of one flat (Bb) and a 4/4 time signature. The tempo is marked as quarter note = 96. The score is divided into three systems. The first system shows the vocal line with the lyrics "Oh ba - by, ba - by." and a piano accompaniment. The second system continues the vocal line with "Oh ba - by, ba - by." and includes a drum part labeled "Drums". The third system includes dynamic markings (Crescendo, *f*, *sf*) and lyrics: ". Oh ba - by, ba - by how was I sup posed to know that (Verse 2 see block 7/8)". A time signature of 1:05 is indicated at the end of the system.

CD 1, TRACK 9

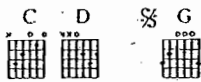
GIRLS JUST WANT TO HAVE FUN

Words and Music by
ROBERT HAZARD

Bright Rock



mf



I come home in the mom - ing light. My moth -
The phone rings in the mid - dle of the night. My fa -
Some boys take a beau - ti - ful girl and hide



- er says. "When you gon - na live your life right?"
- ther yells. "What you gon - na do with your life?"
her a - way from the rest of the world.

C

Oh, Moth-er dear... we're not the for - tu - nate ones. And
 Oh, Dad - dy dear... you know you're still num - ber one. But
 I want to be the one to walk in the sun. Oh.

Em D C Em D

girls. } they want to have fu - un. Oh. girls just want to have
 girls.
 girls.

G Em7

fun.

C D Em D G

girls just want to have... That's all they real - ly want:

Em

some fun.

G

When the work - ing day is done. oh. girls.

Em D C

they want to have fun. Oh.

Em D G

girls just want to have fun.

Em7 D.S. al Coda

To Coda ◊

This system shows the beginning of the piece. It features a guitar part with an Em7 chord and a piano accompaniment. The key signature has one sharp (F#) and the time signature is 7/4. The piano part consists of a steady eighth-note bass line and chords in the right hand.

Coda -

C D G Em C D

They just wan - na, they just wan - na.

This system is the start of the Coda section. It includes guitar chords (C, D, G, Em, C, D) and the vocal line with the lyrics "They just wan - na, they just wan - na." The piano accompaniment continues with the same rhythmic pattern.

G Em C D G

They just wan - na, they just wan - na. Girls.

This system continues the vocal line with the lyrics "They just wan - na, they just wan - na. Girls." The guitar chords are G, Em, C, D, and G. The piano accompaniment remains consistent.

Repeat and fade

Em C D G Em C D

girls just want to have fu - un.

This system concludes the piece with the lyrics "girls just want to have fu - un." The guitar chords are Em, C, D, G, Em, C, and D. The piano accompaniment ends with a final chord. The instruction "Repeat and fade" is written above the system.

CD1, TRACK 10, P 4/4

CD 1, Track 11

0:32-0:38

"Girls Just Want To Have Fun" (Mastertone)

Performed by Cyndi Lauper

16.

Oh, girls just want to have fun

The image shows a single line of musical notation on a five-line staff. The key signature has one sharp (F#) and the time signature is 4/4. The melody begins with a quarter note on G4, followed by an eighth note on A4, a quarter note on B4, and a quarter note on C5. The next measure contains a quarter note on B4, a quarter note on A4, and a quarter note on G4. The third measure has a quarter note on F#4, a quarter note on G4, and a quarter note on A4. The fourth measure consists of a quarter note on B4, a quarter note on C5, and a quarter note on B4. The fifth measure has a quarter note on A4, a quarter note on G4, and a quarter note on F#4. The sixth measure features a quarter note on E4, a quarter note on D4, and a quarter note on C4. The seventh measure has a quarter note on B3, a quarter note on A3, and a quarter note on G3. The eighth measure contains a quarter note on F#3, a quarter note on E3, and a quarter note on D3. The ninth measure has a quarter note on C3, a quarter note on B2, and a quarter note on A2. The tenth measure consists of a quarter note on G2, a quarter note on F#2, and a quarter note on E2. The eleventh measure has a quarter note on D2, a quarter note on C2, and a quarter note on B1. The twelfth measure features a quarter note on A1, a quarter note on G1, and a quarter note on F#1. The thirteenth measure has a quarter note on E1, a quarter note on D1, and a quarter note on C1. The fourteenth measure consists of a quarter note on B0, a quarter note on A0, and a quarter note on G0. The fifteenth measure has a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The sixteenth measure features a quarter note on C0, a quarter note on B0, and a quarter note on A0. The seventeenth measure consists of a quarter note on G0, a quarter note on F#0, and a quarter note on E0. The eighteenth measure has a quarter note on D0, a quarter note on C0, and a quarter note on B0. The nineteenth measure features a quarter note on A0, a quarter note on G0, and a quarter note on F#0. The twentieth measure consists of a quarter note on E0, a quarter note on D0, and a quarter note on C0. The twenty-first measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The twenty-second measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The twenty-third measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The twenty-fourth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The twenty-fifth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The twenty-sixth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The twenty-seventh measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The twenty-eighth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The twenty-ninth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The thirtieth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The thirty-first measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The thirty-second measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The thirty-third measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The thirty-fourth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The thirty-fifth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The thirty-sixth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The thirty-seventh measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The thirty-eighth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The thirty-ninth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The fortieth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The forty-first measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The forty-second measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The forty-third measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The forty-fourth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The forty-fifth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The forty-sixth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The forty-seventh measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The forty-eighth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The forty-ninth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The fiftieth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The fifty-first measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The fifty-second measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The fifty-third measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The fifty-fourth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The fifty-fifth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The fifty-sixth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The fifty-seventh measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The fifty-eighth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The fifty-ninth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The sixtieth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The sixty-first measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The sixty-second measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The sixty-third measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The sixty-fourth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The sixty-fifth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The sixty-sixth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The sixty-seventh measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The sixty-eighth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The sixty-ninth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The seventieth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The seventy-first measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The seventy-second measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The seventy-third measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The seventy-fourth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The seventy-fifth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The seventy-sixth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The seventy-seventh measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The seventy-eighth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The seventy-ninth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The eightieth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The eighty-first measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The eighty-second measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The eighty-third measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The eighty-fourth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The eighty-fifth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The eighty-sixth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The eighty-seventh measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The eighty-eighth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0. The eighty-ninth measure consists of a quarter note on C0, a quarter note on B0, and a quarter note on A0. The ninetieth measure has a quarter note on B0, a quarter note on A0, and a quarter note on G0. The hundredth measure features a quarter note on F#0, a quarter note on E0, and a quarter note on D0.

C

Oh, Mom-my dear, we're not the for-tu-nate ones. And
 Oh, Dad-dy dear, you know you're still num-ber one. But
 I want to be the one to walk in the sun. Oh,

Em D C Em D

girls } they want to have fu-
 girls } un. Oh, girls just want to have fun.

:32

G Em7

un

:38

C D Em D G

girls just want to have. That's all they real-ly want

CD 1, TRACK 11

CD 1, Track 12
0:29-0:38

"Girls Just Want To Have Fun" (Mastertone)

Performed by Cyndi Lauper

15



The image shows a single line of musical notation on a five-line staff. The key signature has one sharp (F#), and the time signature is 4/4. The melody consists of eighth and quarter notes. The lyrics are written below the staff, aligned with the notes.

girls; they wan-na have fu : : un : : Oh, girls just wan-na have fun

2.

C

Oh, Mother dear, we're not the for- to- note ones. And
 Oh, Daddy dear, you know you're still num- ber one. But
 I want to be the one to walk in the sun. Oh,

29

Em D C Em D

girls } ~~they want to have fun~~ *WON-NA* in Oh girls just *WON-NA* ~~not to have fun~~ *fun*

G Em7

38

C D Em D G

girls just want to have That's all they real-ly want.

C.P. 1, TRACK 12.

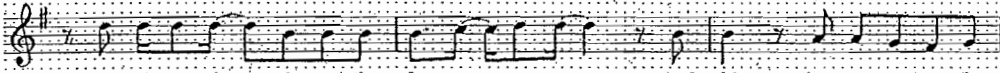
"Girls Just Want To Have Fun" (Mastertone)

Performed by Cyndi Lauper

9



I come home in the morn-ing light. My moth-er says, "When you gon-na live your life right?"



Oh, Ma-ma dear, we're not the for-tu-nate ones. And girls, they wan-na have fu-



un. Oh girls just wan-na have fun.

GIRLS JUST WANT TO HAVE FUN

Words and Music by
ROBERT HAZARD

Bright Rock

G Em7

mf

C D G

I come home in the morn - ing. light. My moth -
The phone rings in the mid - dle of the night. My fa -
Some boys take a beau - ti - ful girl and hide

:16

Em

er says, "When you gon - na live your life right?"
ther yells, "What you gon - na do with your life?"
her a way from the rest of the world.

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CD 1, TRACK 13

p1/2

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2

C

Oh, ~~Mom~~ ^{MAMA} dear we're not the for to hide ones. And
 Oh, Dad - dy dear you know you're still minn ber one. But
 I want to be the one to walk in the son. Oh

Em D C Em D

girls } ^{WANT-NA} they want to have fun
 girls }
 girls } Oh girls just ^{WON-NA} want to have fun

G Em7

C D Em D G

girls just want to have. That's all they real - ly want.

:42

CD 1, TRACK 13

p2/2

Authorized for use by Marianne Csizmadia

from Elvis Presley - *Elvis' Golden Records*
That's All Right

Words and Music by Arthur Crudup

Intro
 Moderately $\text{♩} = 102$ ($\text{♩} = \text{♩} = \text{♩}$)

A

1. Well,

*Gtr. 1 (acous) Rhy. Fig. 1 End Rhy. Fig. 1

mf
 let ring throughout

T A B

*Ehis

Verse
 Gtr. 1: w/ Rhy. Fig. 1 (4 times)

A

that's all right now, Ma - ma, me, that's all right for you. That's
 Ma - ma, she done told me, Pa - pa done told me too; "Son,
 leav - in' town now, ba - by, I'm leav - in' town for sure. Well,

**Gtr. 2 (elec.)

mf
 w/ clean tone
 w/ fingers
 P.M. P.M. P.M. P.M.

let ring - - - - - 1 let ring - - - - - 1 P.M. P.M. let ring - - - - - 1 let ring - - - - - 1

T A B

**Scotty Moore
 ***T = Thumb on 6th string

↓Downstroke

all right now, Ma - ma, just an - y way you do. Now, }
 that gal you're fool - in' with, she ain't no good for you. } But, } that's... all
 then you won't be both - ered with me hang - in' 'round your door. But, }

P.M. P.M. let ring - 1 let ring - - - - - 1

T A B

††Upstroke

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C.D. 1, TRACK 15,
 P. 1/4 1

D9

right, _____ that's all right. _____ That's all _____

Gr. 2 Rhy. Fig. 3

P.M. P.M. V n P.M. V n P.M. P.M. V n n n

Gr. 1 Rhy. Fig. 2

E9

right now, Ma ma, _____ an y way you do. _____

To Coda

End Rhy. Fig. 3

P.M. n P.M. V n P.M. let ring-----1 V n P.M. n P.M. V n P.M. let ring-----1

End Rhy. Fig. 2

1. Gr. 1 w/ Rhy. Fig. 1 A

2. Well,

Gr. 2

let ring-----1 P.M. P.M. P.M. P.M. P.M. P.M. V n V P.M. T-----

*6th string only

Guitar Solo
Gr. 1: w/ Rhy. Fig. 1 (4 times)
A

P.M. T P.M. T P.M. T

Played behind the beat.

Gr. 1: w/ Rhy. Fig. 2
D9

let ring P.M. P.M. let ring P.M. P.M.

E7#9

let ring let ring

Gr. 1: w/ Rhy. Fig. 1 (2 times)
A

3. P'm
P.M. T V P.M. T let ring let ring let ring

D.S. al Coda

C.D. 1, TRACK 15,
P. 3/4

⊕ Coda

Gtr. 1: w/Rhy. Fig. 1
A

Verse
Gtr. 1: w/Rhy. Fig. 1 (3 times)
A

4. Ah, da, da, dec, — dec, dec, — dec.

Gtr. 2

P.M. P.M. *let ring* P.M. P.M. V n P.M. P.M. P.M.

Dec, dec, dec, — dec. Dec, dec, dec, — dec. I need your love

Gtr. 2

P.M. P.M. *P.M. *let ring* *mf*

*6th string only

Gtr. 1: w/Rhy. Fig. 2
Gtr. 2: w/Rhy. Fig. 3

D9 E9

in' — That's all right — That's all right now,

Gtr. 1: w/Rhy. Fig. 1
A

Ma — ma, — an — y way you do.

Gtr. 2

P.M. V n P.M. n P.M. V n P.M. *let ring* P.M. *let ring* P.M.

Outro
Gtr. 2 tacet
A

tr. 1

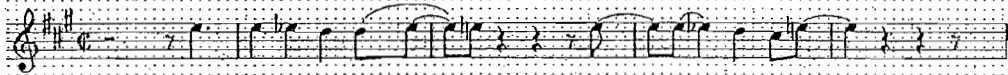
C.D. 1, TRACK 15, P. 4/4

CD 1, Track 16
0:05-0:11

"That's All Right" (Mastertone)

Performed by Elvis Presley

5



Well, that's all right Ma . . . ma . . . that's . . . all . . . right for you . . .

The image shows a musical staff with a treble clef and a key signature of one sharp (F#). The melody consists of quarter and eighth notes, with some notes beamed together. The lyrics are written below the staff, with dots indicating the alignment of notes with syllables.

from Elvis Presley - *Elvis' Golden Records*
That's All Right
 Words and Music by Arthur Crudup

Intro
 Moderately ♩ = 182 (♩ = 11)

A

Verse
 1st Verse
 2nd Verse

A

That's all right, Ma, that's all right for you.
 Ma, ain't she sweet, hold on, Pa, you done told me they
 love to have you, ha by, Pa, they ain't know for sure.

That's all right, Ma, that's all right for you.
 Ma, ain't she sweet, hold on, Pa, you done told me they
 love to have you, ha by, Pa, they ain't know for sure.

EN

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CD 1, TRACK 16

CD 1, Track 17

0:05-0:17

"That's All Right" (Mastertone)

Performed by Elvis Presley

5.

Well, that's all right Ma - ma, that's all right for you. That's

all right Ma - ma, just an - y way, you do. Th - that's all right.

The image shows two staves of musical notation in treble clef with a key signature of one sharp (F#). The first staff begins with a measure rest and contains the lyrics 'Well, that's all right Ma - ma, that's all right for you. That's'. The second staff continues with the lyrics 'all right Ma - ma, just an - y way, you do. Th - that's all right.' The notes are primarily quarter and eighth notes, with some slurs and ties.

from Elvis Presley - *Elvis' Greatest Hits*

That's All Right

Words and Music by Arthur Crudup

Intro
Moderately ♩ = 120 (♩ = 3)

The musical score consists of the following sections:

- Intro:** Moderately ♩ = 120 (♩ = 3). The key signature has one flat (Bb). It begins with an instrumental introduction in the treble clef.
- System 1:** The first vocal line is marked 'Mezzo Sop. Part'. The lyrics are: "That's all right, now look, that's all right for you and me. We won't be afraid no more, baby." This is followed by a piano accompaniment line.
- System 2:** The second vocal line continues: "If you come right in here, you'll find me. I'm here, I'm here." The piano accompaniment continues.
- System 3:** The third vocal line concludes with: "That's all right, now look, that's all right for you and me. We won't be afraid no more, baby." The piano accompaniment ends with a final chord.

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CD 1, TRACK 17

p. 1/2

DP

right That's all right That's all

Con. 2 7th, Fig. 2

Con. 1 7th, Fig. 1

117

ES

right now. Ma pa. no. y way you do.

7th Circle

Con. 2 7th, Fig. 2

Con. 1 7th, Fig. 1

Con. 2 7th, Fig. 2

Con. 1 7th, Fig. 1

2. Well

2

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CZ 1, TRACK 17
P2/2

My Love

Words & Music by Justin Timberlake, Tim Mosley, Clifford Harris & Nathaniel Hills

$\text{♩} = 121$

The musical score is written in 4/4 time with a tempo of 121 bpm. It features a piano accompaniment and a vocal line. The piano part consists of a steady eighth-note accompaniment in the right hand and a bass line in the left hand. The vocal line includes lyrics and some technical markings like 'N.C.' and triplets.

Em $\begin{matrix} \circ & \circ & \circ & \circ \\ | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$ Bm $\begin{matrix} | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$

Am $\begin{matrix} | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$ Em $\begin{matrix} \circ & \circ & \circ & \circ \\ | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$

Bm $\begin{matrix} | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$ N.C. $\overset{3}{\curvearrowright}$ $\overset{3}{\curvearrowright}$

1. If I wrote you a

sym - pho - ny — just to say how much you mean to me. (What would you
love note. — and made you smile at ev - ry word I wrote. (What would you

Em $\begin{matrix} \circ & \circ & \circ & \circ \\ | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$ Bm $\begin{matrix} | & | & | & | \\ \hline | & | & | & | \\ | & | & | & | \\ | & | & | & | \end{matrix}$

CD1, TRACK 18, P 1/4

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Am Em Bm

do?) If I told you you were beau - ti - ful _ would you date me on the
do?) Would that make you want to change your scene _ and wan - na be the one on

Am Em

reg - u - lar? (Tell me, would you?) Well, ba-by I've been a - round the world, _
my _ team? (Tell me, would you?) See what's the point of wait - ing? an - y - more? _

Bm Am

but I ain't seen my-self an - oth - er girl (like you.) This ring here rep - re -
'Cause girl I've nev - er been _ more _ sure, (That baby it's you.) This ring here rep - re -

Em Bm

sents my heart _ but there's just one thing I need from you, (say, _ "I
sents my heart _ and ev - 'ry - thing that you've been wait - ing for, (just say, _ "I

CD1, TRACK 18, P 2/4

N.C. Bm

do: } Spoken. Be-cause... I can see us hold-ing hands, walk-ing on the beach, our toes in the sand.
do: }

Am Am/C

I can see us in the coun - try - side, sit-ting on the grass lay-ing side by side.

Em Bm

You could be my ba - by, let me make you my la - dy. girl you a-maze me,

Am To Coda

ain't got - ta do noth-in cra - zy, see all I want you to do is be my

CD1, TRACK 18, P3/4

4

Em Bm

love. — (So don't give a-way.) My love. (So don't give a-way.) My

Am Am/C

love. (So don't give a-way.) Ain't an - oth - er wom-an that can take your spot, my

Em Bm

love. — (So don't give a-way.) My love. (So don't give a-way.) My

Am Am/C

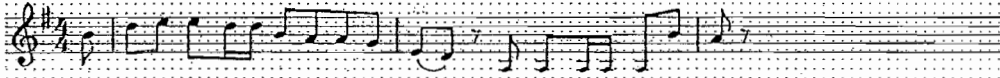
love. (So don't give a-way.) Ain't an - oth - er wom-an that can take your spot, my

CD1, TRACK 18, p4/4

CD 1, Track 19
1:04-1:08

“My Love” (Mastertone)
Performed by Justin Timberlake

33



See all I want you to do is be my love... (So don't give a-way.) My love.

N.C. Em Dm

Spoken: Be-cause I can see us hold-ing hands, walk-ing on the beach, our toes in the sand.

Am Am/C

I can see us in the com- - ny-side, sit-ting on the grass, lay-ing side by side.

Em Dm

You should be my, ha' - by, let me make you my ha - by, girl you a-maze me.

Am To Coda

ain't got to do with in - ty, see all I want you to do is be my

1-04

CD1, TRACK 19

P1/2
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Em 1:08 Bm

love (So don't give a-way.) My love. (So don't give a-way.) My

Am A6/C

love. (So don't give a-way.) Ain't an oth- er wom-an that can take your spot. my

Em Bm

love. (So don't give a-way.) My love. (So don't give a-way.) My

Am A6/C

love. (So don't give a-way.) Ain't an oth- er wom-an that can take your spot. my

CD 1, TRACK 19

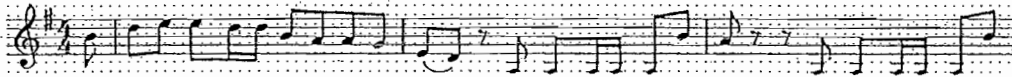
p 2/2

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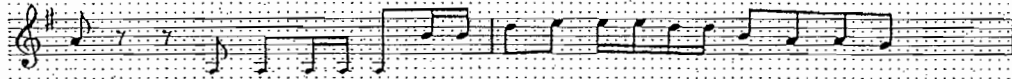
"My Love" (Mastertone)

Performed by Justin Timberlake

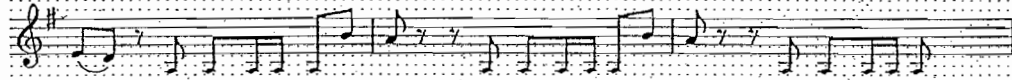
33



See all I want you to do is be my love... (So don't give a-way.) My love... (So don't give a-way.) My



love... (So don't give a-way.) Ain't an-oth-er wom-an that can take your spot, my



love... (So don't give a-way.) My love... (So don't give a-way.) My love... (So don't give a-way.)

M.C.

do~ do~ } Spoken: Be-cause I can see us hold- ing hands, walk- ing on the beach, our feet in the sand.

3

I can see us in the ex-cess - sive - slide, shiv- ing on the gears, my ing sixth by slide.

You could be my ba - by, let see make you my fa - dy, girl you a-maze me.

ain't got to do with us - ty, see all I want you to do is be my

1:04

CD 1, TRACK 20

p112
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4

Em Dm

love. (So don't give a-way.) My love. (So don't give a-way.) My

Am Am/C

love. (So don't give a-way.) Ain't an - oth - er woman that can take your spot, my

Em Dm

love. (So don't give a-way.) My love. (So don't give a-way.) My

Am Am/C

love. (So don't give a-way.) Ain't an - oth - er woman that can take your spot, my

1:19

8

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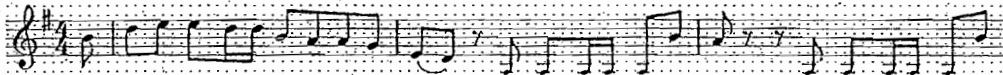
C.D. 1, TRACK 20

p 2/2

"My Love" (Mastertone)

Performed by Justin Timberlake

33



See all I want you to do is be my love. (So don't give a-way.) My love. (So don't give a-way.) My



love. (So don't give a-way.) Ain't an-oth-er wom-an that can take your spot, my



love. (So don't give a-way.) My love. (So don't give a-way.) My love. (So don't give a-way.) Ain't an



oth-er wom-an that can take your spot, my love.



Love. My love.

N.C.

do⁷ do⁷ *Spoken: Be-cause...* I can see - us hold - ing hands, walk - ing on the beach, our toes in the sand.



3

Am

Am/C

I can see us in the even - ing - side, sit - ting in the grass, lay - ing side by side.



Em

Dm

You could be my ha - by, let me make you my ha - by, girl - you u - sually are.



Am

To Coda 0

ain't got to do - noth - ing ev - ry, see - all I want you to do is - be my



1:04

CD1, TRACK 21

PI/S
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Em Em

love (So don't give a-ways) My love (So don't give a-ways) My

Am Am/C

love (So don't give a-ways) Ain't an oth - er woman that can take your spot, my

Em Em

love (So don't give a-ways) My love (So don't give a-ways) My

Am Am/C

love (So don't give a-ways) Ain't an oth - er woman that can take your spot, my

CD 1, TRACK 21

p 2/3

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5

Em Bm

Love

Am Em

Love My Love

Dm 1:33

1. M.C.

My love Now if I were you a

2. Bm Am

love Spoken Shar-y

CD 1, TRACK 21

p 3/3

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SexyBack

Words & Music by Timothy Mosley,
Justin Timberlake & N. Hill

$\text{♩} = 116$

Am Bb Am Bb Am Bb

Am Bb Am Bb Am Bb Am Bb

Am Bb S Am Bb Am Bb

1. I'm bring-ing sex - y back _ (Yeah!) Them oth - er boys don't know
 (2.) sex - y back _ (Yeah!) Them oth - er fuck - ers don't know
 (3.) sex - y back _ (Yeah!) You moth - er fuck - ers watch how

CD1, TRACK 22, P 1/8

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2

Am Bb Am Bb

how to act. _____ (Yeah!) I think you're spe - cial; what's be -
 how to act. _____ (Yeah!) Come let me make up for the
 I at - tack. _____ (Yeah!) If that's your girl, bet - ter

Am Bb Am Bb

hind your back? _____ (Yeah!) So turn a - round and I'll pick
 things you lack. _____ (Yeah!) 'Cause you're burn - ing up I got - ta
 watch your back. _____ (Yeah!) 'Cause she'll burn it up for me and

Am Bb To Coda Am Bb

up the slack. _____ (Yeah!) (Take 'em to the bridge.)
 get it fast. _____ (Yeah!) (Take 'em to the bridge.)
 that's a fact. _____ (Yeah!)

Am Bb Am Bb

Dirt - y babe, you see these shack - les ba - by,

CD 1, TRACK 22, P 2/8

Am Bb Am Bb

I'm your slave. I'll let you whip me if I

Am Bb Am Bb

mis - be - have. It's just that no - one makes me

Am Bb Am Bb

feel this way. *(Take 'em to the cho - rus.)*

Am Bb Am Bb

(Come here girl!) - Go a-head, be gone with it. *(Come to the back.)* Go a-head, be gone with it.

CD1, TRACK 22, P 3/8

4

Am Bb Am Bb

(V. I. P.) Go a-head, be gone with it. *(Drinks on me.)* Go a-head, be gone with it. *(Let me see what you're*

twerk-ing with.) Go a-head, be gone with it. *(Look at those hips.)* Go a-head, be gone with it. *(You*

make me smile.) Go a-head, be gone with it. *(Go a-head child.)* Go a-head, be gone with it.

Am Bb Am Bb

(Get your sex-y on.) Go a-head, be gone with it. *(Get your sex-y on.)* Go a-head, be gone with it.

CD 1, TRACK 22, P 4/8

Am Bb Am Bb

(Get your sex - y on.) Go a-head, be gone with it. (Get your sex - y on.) Go a-head, be gone with it.

Am Bb Am Bb

(Get your sex - y on.) Go a-head, be gone with it. (Get your sex - y on.) Go a-head, be gone with it.

Am Bb

(Get your sex - y on.) Go a-head, be gone with it. (Get your sex - y on.) 2. I'm bring - ing

1.
N.C.

12.
N.C.

(Get your sex - y on.) (Huh!) (You read - y?)

Drums.

CD1, TRACK 22, p 5/8

(You read - y?) (You read - y?)

D.S. al Coda

3. I'm bring - ing

Coda Am Bb

(Take 'em to the cho - rus.)

Am Bb Am Bb

(Come here girl!) - Go a-head, be gone with it. (Come to the back.) Go a-head, be gone with it.

Am Bb Am Bb

(V. I. P.) - Go a-head, be gone with it. (Drinks on me.) Go a-head, be gone with it. (Let me see what you're

CD1, TRACK 22, P 6/8

Am Bb Am Bb

tweak-ing with.) Go a-head, be gone with it. (*Look at those hips.*) Go a-head, be gone with it. (You

Am Bb Am Bb

make me smile.) Go a-head, be gone with it. (*Go a-head child.*) Go a-head, be gone with it.

Am Bb Am Bb

(*Get your sex-y on.*) Go a-head, be gone with it. (*Get your sex-y on.*) Go a-head, be gone with it.

Am Bb Am Bb

(*Get your sex-y on.*) Go a-head, be gone with it. (*Get your sex-y on.*) Go a-head, be gone with it.

CD 1, TRACK 22, P 7/B

8 Am Bb Am Bb

(Get your sex - y on.) Go a - head, be gone with it. (Get your sex - y on.) Go a - head, be gone with it.

Am Bb N.C.

(Get your sex - y on.) Go a - head, be gone with it. (Get your sex - y on.)

Am Bb Gm Am

(Ooh) (Ooh) (You read - y?) (Yes!)

Bb Gm Am

Repeat ad lib. and fade

(Ooh) (Ooh) (You read - y?) (Yes!)

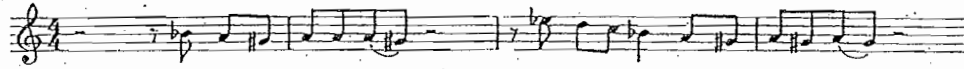
CD 1, TRACK 22, P 8/8

CD 1, Track 23
0:14-0:31


“SexyBack” (Mastertone)

Performed by Justin Timberlake

8



I'm bring-ing sex-y back. Them oth-er boys don't know how to act...



I think you're spe-cial, what's be-hind your back?...



So turn a-round and I'll pick up the slack...

Note: The pitches here are approximated, due to the imprecise vocal style of the performer.

SexyBack

Words & Music by Timothy Mosky,
Justin Timberlake & N. 1311

$J=116$

Am D# Am D# Am D#

Am D# Am D# Am D# Am D#

Am D# Am D# Am D#

1. I'm bring-ing sex-y back... (Yeah) Then oh - es boys don't know
 (2) sex - y back... (Yeah) Then oh - es fuck - ers don't know
 (3) sex - y back... (Yeah) You moth - er fuck - ers watch how

:14

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9/12

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2 Am D1 Am D1

how to act _____ (Teach)
 how to act _____ (Teach)
 I sit - back _____ (Teach)

I think you're spe - cial, what's be -
 Cause let me make up for the
 If that's your gift, bet - ter

Am D1 Am D1

find your back? _____ (Teach)
 things you back _____ (Teach)
 watch your back _____ (Teach)

So tara u - round and I'll pick
 'Cause you're bein' - ing up I get - ta
 'Cause she'll bein' li up for me and

Am D1 To Coda Am D1

up the slack _____ (Teach)
 get li - fast _____ (Teach)
 that's a fact _____ (Teach)

(Take 'em to the bridge)
 (Take 'em to the bridge)

:31

Am D1 Am D1


Dis - y babe. you see these shack - les ho - by,

C.D. 1, TRACK 23
 p212
 Authorized for use by J&J

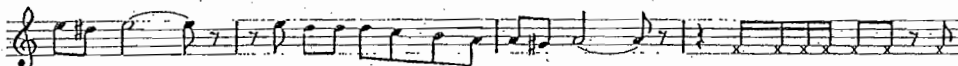
CD 1, Track 24
0:32-0:49

"SexyBack" (Mastertone)
Performed by Justin Timberlake

17



Dirt-y babe. you see these shack-les ba-by. I'm your slave. I'll let you whip me if I



mis-be- have. It's just that no-one makes me feel this way. (Take 'em to the cho-rus huh)

Note: The pitches here are approximated, due to the imprecise vocal style of the performer.

2 Am Bb Am Bb

how to act. (Yeah) I think you're spe - cial, what's be -
 how to act. (Yeah) 'Cause let me make up for the
 I si - act. (Yeah) If that's your girl bet - ter

Am Bb Am Bb

hand your back? (Yeah) So turn a - round and I'll pick
 things you lack. (Yeah) 'Cause you're lost - ing up I get - ta
 watch your back. (Yeah) 'Cause she'll burn 'n' cry for me and

Am Bb To Coda @ Am Bb

up the shack. (Yeah) (Take 'em to the bridge.)
 get it fast. (Yeah) (Take 'em to the bridge.)
 that's = best. (Yeah)

Am Bb Am Bb

Dia - y loba you see these shack - les in - by.

:32

Authorized for use by Jud

CD 1, TRACK 24

p112

Am Bb Am Bb 3

For your slave. I'd let you whip me if I

was - be - have. It's just that no - one makes me

feel this way. (Take 'em to the cha - rity)

(Come here girl!) Go n-head, to gone with it. (Come go the back) On n-head, be gone with it.

:49

C.D 1, TRACK 24

p 212

Authorized for use by Jnd

OVER MY HEAD

(Cable Car)

Words and Music by JOSEPH KING
and ISAAC SLADE

Moderately fast

The musical score is written in 4/4 time with a key signature of two flats (Bb and Eb). It consists of three systems of music. Each system includes a vocal line with lyrics, a guitar line with chord diagrams, and a piano accompaniment. The piano part starts with a mezzo-forte (mf) dynamic. The guitar part provides harmonic support with various chords including Dbmaj7, Fm7, Ab, Dbmaj9, Bbm, and Eb.

System 1:

Chords: Dbmaj7, Fm7, Absus

Vocal: I nev - er knew, I nev - er knew that ev - 'ry - thing was
re - ar - range. I wish you were a stran - ger; I could

System 2:

Chords: Dbmaj9, Fm7, Ab, Dbmaj9

Vocal: fall - ing through, that ev - 'ry - one I knew was wait - ing on a cue to turn
dis - en - gage, just say that we a - gree and then nev - er change, soft - en

System 3:

Chords: Fm7, Absus, Bbm, Ab, Eb

Vocal: and run, when all I need - ed was the truth. But that's how it's got -
a bit un - til we all just get a - long. But that's dis -

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CD1, TRACK 25, P 11

Authorized for

Dbmaj9 Fm11 A/C Dbmaj9

ta: be; it's com - ing down to noth - ing more than a - pa - thy. I'd rath -
re - gard. Find an - oth - er friend and you dis - card as you lose -

Fm11 A/C Dbmaj9 Fm11 A/C

- er run the oth - er way than stay and see the smoke and who's still
the ar - gu - ment in a ca - ble car hang - ing a - bove as the can -

Bbm11 A♭ E♭ D♭ A♭

stand - ing when it clears. } And ev - 'ry - one knows -
you comes be - tween.

Fm A♭ Dbmaj7/F D♭ A♭ Fm7 E♭7sus

I'm in o - ver my head, o - ver my head. With eight -

CD1, TRACK 25, P 2/7

D \flat A \flat Fm7 A \flat D \flat A \flat

sec - onds left in o - ver - time, she's on your mind, she's on

1. Fm7 E \flat 7sus D \flat maj9 Fm7 A \flat /C

your mind.

D \flat maj9 Fm7 A \flat /C 2. Fm7 E \flat 7sus

Let's your mind.

D \flat A \flat Fm A \flat D \flat maj7/F D \flat A \flat

Ev - 'ry - one knows I'm in o - ver my head, o - ver

CD1, TRACK 25, p317

Fm7 Eb7sus Db Ab Fm7 Ab

my head. With eight sec - onds left in o - ver - time, she's on

Db Ab Fm7 Eb7sus Dbmaj9

your mind, she's on, on. And sud - den - ly I've be - come

Dbmaj7/F Dbmaj7/Ab Dbmaj9 Dbmaj7/F Dbmaj9

part of your past. I'm be - com - ing the part that don't last, I'm

Dbmaj7/F Dbmaj7/Ab Bbm7 Bbm11 Dbmaj7

los - ing you and it's ef - fort - less. With - out a sound, we lose sight

CD1, TRACK 25, P 4/7

Fm Ab Dbmaj7 Fm Bb

of the ground in the throw - a - round. Nev - er thought that you want - ed to bring

Dbmaj7 Fm Ab Bbm11

it down. I won't let it go down 'til we torch it our - selves. And ev -

Abmaj13

- ry - one knows I'm in o - ver my head, o - ver

Dbmaj7#11 Abmaj13 Fm11 EWG Eb5

my head. With eight sec - onds left in o - ver - time, she's on -

CD1, TRACK 25, p 517

6

Dbmaj7#11 Abmaj13 Fm11 Eb/G Eb5 Dbmaj9

your mind, she's on your mind.

Fm11 Eb7 Dbmaj9 Fm11 Eb7

Ev - ry - one knows that she's on your mind.

Dbmaj9 Fm11 Eb7 Dbmaj9

Ev - 'ry - one knows I'm in o - ver my head, I'm in o - ver my

Fm11 Eb7 D# Ab Fm Ab Dbmaj7/F

head, I'm o - ver my. Ev - 'ry - one knows I'm in o - ver

CD1, TRACK 25, P 6/7

7

Db Ab Fm7 Eb7sus Db Ab Fm7 Ab

— my head, o-ver — my head. With eight — sec-onds left in o — ver-time, she's on —

Db Ab Fm7 Eb7 Dbmaj9 Fm11 Ab

— your mind, she's on — your — mind.

Dbmaj9 Fm11 Ab Dbmaj9 Fm11 Ab

Db7sus2

Optional Ending

Repeat and Fade

CD1, TRACK 25, P717

CD 1, Track 26

1:34-1:43

“Over My Head” (Mastertone)

Performed by The Fray

19



Ev-ry-one knows I'm in o-ver my head, o-ver my head.

Dimaj9 Fm11 A/C Dimaj9

is be- ing down to both- ing more than a - pa - thy. I'd rath-
 re- gard. Find an - oth - er friend and you dis - card as you lose

Fm11 A/C Dimaj9 Fm11 A/C

er run the oth - er way than stay and see the smoke and who's still
 the ar - go - ment in a ca - ble car hang - ing a - bove as the can -

Bm11 A/C E7 D7 A/C

stand - ing when it clears And ev - ry - one knows
 you comes be - tween.

1:34

Fm A/C Dimaj7/F D7 A/C Fm7 E7sus

I'm in o - ver my head, o - ver my head With eight

1:43

“Over My Head” (Mastertone)

Performed by The Fray

19



Ev-ry: one: knows: I'm in: a: ver: my: head, a: ver: my: head. With eight



sec: onds: left: in: a: ver: time, she's on: your: mind, she's on: your: mind.

2

DImaj9

Fm11

A/C

DImaj9

is be- ing down to noth- ing more than a - pa - thy. I'd rath-
re-gard. Find an-oth- er friend and you dis- card as you lose

Fm11

A/C

DImaj9

Fm11

A/C

er run the oth- er way than stay and see the smoke and who's still
the ar- gu-ment in a ca - ble car hang- ing a - boye as the car

DIm11

A1

E1

D1

A1

stand - ing when it clears. And ev - ry one knows
you comes be - tween.

1:34

Fm

A1

DImaj7/F

D1

A1

Fm7

E17sus

I'm in o - ver my head, o - ver my head. With eigh-

CD 1, TRACK 27

p. 1/2

3

D^b
A^b
Fm7
A^b
D^b
A^b

sec - onds left in o - ver - time, she's on your mind, she's on

1.

Fm7
E^b7sus
D^bmaj9
Fm7
A^bC

your mind

D^bmaj9
Fm7
A^bC
F² Fm7
E^b7sus

Let's your mind

1:51

D^b
A^b
Fm
A^b
D^bmaj7/F
D^b
A^b

Ev - ry - one knows I'm in o - ver my head, o - ver

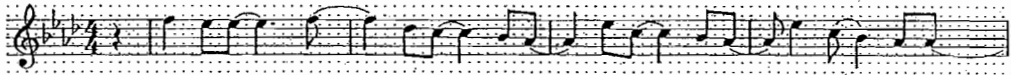
CD 1, TRACK 27

p 2/2

"Over My Head" (Mastertone)

Performed by The Fray

19



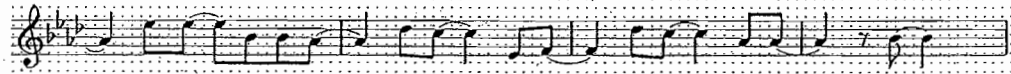
Ev-'ry one knows I'm in o-ver my head, o-ver my head. With eight



sec-onds left in o-ver time, she's on your mind, she's on your mind.



Ev-'ry one knows I'm in o-ver my head, o-ver my head. With eight



sec-onds left in o-ver time, she's on your mind, she's on on

Dimaj9 Fm11 AVC Dimaj9

Is be- re-gard. it's com- ing down to noth- ing more than a... pa- thy. I'd rath- er find an- oth- er friend and you dis- card as you lose

Fm11 AVC Dimaj9 Fm11 AVC

er run the oth- er way than stay mid- sea. the smoke and who's still hang- ing a boye as the can- the ar- gu- ment in a ca- ble car

Dimaj9 A5 E1 D1 A1

stand- ing when it clears, you comes be- tween. And ev- ry one knows

1:34

Fm11 A1 Dimaj9 D1 A1 Fm7 E1/7sus

I'm in o- ver my head, o- ver my head With eight

3

D1
A1
Fm7
A1
D1
A1

sec - onds - left in o - ver - time, she's on your mind, she's on

Fm7
E17sus
D1maj9
Fm7
A1C

your mind.

D1maj9
Fm7
A1C
F2 Fm7
E17sus

Let's - your mind.

D1
A1
Fm
A1
D1maj7/F
D1
A1

Ev - ry - one knows I'm in o - ver my head, o - ver

CD 1, TRACK 28

p 2 / 3

Authorized for use by Marianne Csizmadia

4

Fm7 E17sus D1 A1 Fm7 A1

my head With eight sec-onds left in o-ver-time she's on

D1 A1 Fm7 2:08 E17sus D1maj9

your mind she's on on And sud-den-ly I've be-come

D1maj7/F D1maj7/A1 D1maj9 D1maj7/F D1maj9

part of your past I'm be-coming the part that don't last I'm

D1maj7/F D1maj7/A1 D1maj7 B1maj11 D1maj7

los-ing you and it's ef-fort less With-out a sound we lose sight

CD 1, TRACK 28

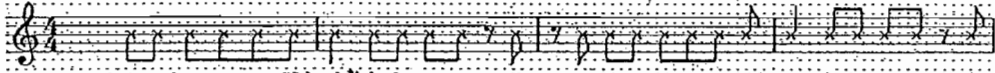
13/3

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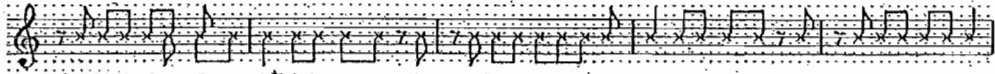
"Hollaback Girl" (Interlude Section)

Performed by Gwen Stefani

66



Let me hear you say, This sh*t is ba-na-nas, B : : A-N-A-N-A-S. This sh*t is ba-na-nas, B-



A-N-A-N-A-S : : sh*t is bu-na-nas, B : : A-N-A-N-A-S. This sh*t is bu-na-nas, B : : A-N-A-N-A-S.
A-gain this

CD 2, Track 2

2:24-2:33

"Hollaback Girl" (Mastertone)

Performed by Gwen Stefani

67

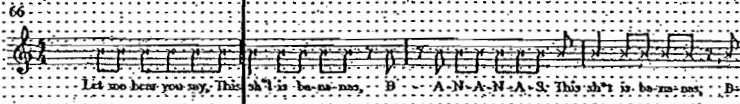
is: ba-na-nas, B: A-N-A-N-A-S. This is: ba-na-nas, B: A-N-A-N-A-S.
A-gain this.

The image shows a single line of musical notation on a five-line staff. The notation is in 4/4 time and consists of a series of eighth and sixteenth notes. Below the staff, the lyrics are written in a stylized font, with some words in all caps and some in lowercase. The lyrics are: "is: ba-na-nas, B: A-N-A-N-A-S. This is: ba-na-nas, B: A-N-A-N-A-S. A-gain this."

"Hollaback Girl" (Interlude Section)

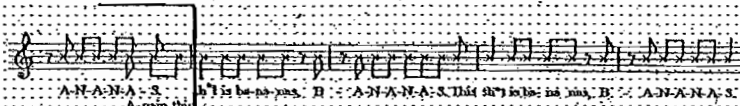
Performed by Gwen Stefani

66



Let me hear you say, This sh*t is be-na-na-s, B - A-N-A-N-A-S. This sh*t is be-na-na-s, B-

2:24



A-N-A-N-A-S. This sh*t is be-na-na-s, B - A-N-A-N-A-S. This sh*t is be-na-na-s, B - A-N-A-N-A-S.
A-gain this

2:33

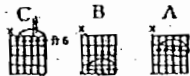
CD 2, TRACK 2

GIMME SHELTER

Optional Guitar in Open G tuning:

- ⊙ = D ⊙ = G
- ⊙ = G ⊙ = B
- ⊙ = D ⊙ = D

Words and Music by
MICK JAGGER and KEITH RICHARDS



Moderately $\text{♩} = 116$

The musical score is divided into three systems. Each system consists of a piano accompaniment (piano and bass clefs) and a vocal line (treble clef). The piano accompaniment features a steady eighth-note pattern in the right hand and a bass line in the left hand. The vocal line includes lyrics: "Oo, oo, oo." and is accompanied by guitar chords (C, B, A, B) indicated above the staff. The first system is marked *mp* (mezzo-piano) and the third system is marked *mf* (mezzo-forte). The tempo is indicated as Moderately with a quarter note equal to 116 beats per minute.

2. C# B

Musical notation for the first system, including guitar chords C# and B.

A E A E A E B E B

Musical notation for the second system, including guitar chords A, E, A, E, A, E, B, E, B.

Verse:

C#

Musical notation for the start of the verse, including guitar chord C#.

1. Oo, a storm is threat - 'ning my ver - y life
 2. Ooh, see the fire is sweep - in' our ver - y street
 3. Mm, the flood is threat - 'ning my ver - y life

to - day. If I don't get some shel - ter,
 to - day. Burns like a red coat car - pct;
 to - day. Gim - me, gim - me shel - ter

Musical notation for the end of the verse.

To Coda ♪

ooh yeah I'm gon - na fade a - way.
 mad bull lost your way.
 or I'm gon - na

Chorus:

War chil - dren, it's just a shot a - way,

it's just a shot a - way. War, chil -

- dren, it's just a shot a - way, it's just a shot a - way.

The musical score is divided into three systems. The first system begins with a guitar chord labeled **C1** in the treble clef. Below the guitar staff, the instruction *(Inst. solo ad lib. ...)* is written. The piano accompaniment consists of two staves (treble and bass clef) with a complex rhythmic pattern. The second system is marked with **1.** and **||2.** above the first and second measures of the piano part, indicating first and second endings. The third system features three guitar chords labeled **C1**, **B**, and **A** in the treble clef, corresponding to the first, second, and third measures of the piano accompaniment. The piano part continues with the same rhythmic pattern throughout.

1.2. E A E A E B E B 1.3. E A E A E B E B

...end solo)

Chorus:
C1 B A

Rapc, mur-der! It's just a shot a-way.

E A E A E B E B C1

It's just a shot a-way. Rapc,

B A

mur-der. yeah! It's just a shot a-way.

E A E A E B E B C# B

It's just a shot a - way. Rape, mur - der!

A E B E D E B C#

It's just a shot a - way, It's just a shot a - way, yeah, yeah,

D.S. 8 al Coda

yeah.

Coda ♪

Chorus: C# B

fade a - way. War, chil - dren,

A

E A F A E B G B 7

it's just a shot a - way, — it's just a shot a - way, —

C1 B A

It's just a shot a - way.. it's just a shot a - way.. It's just a shot a - way..

E A E A E B E B C1

I tell you love. —

B A

sis - ter, — it's just a kiss a - way, —

E A E A E B E B C#

It's just a kiss a - way. — It's just a kiss a - way. —

B A

it's just a kiss a - way, — it's just a kiss a - way,

E A E A E B E B C# B

kiss a - way, kiss a - way.

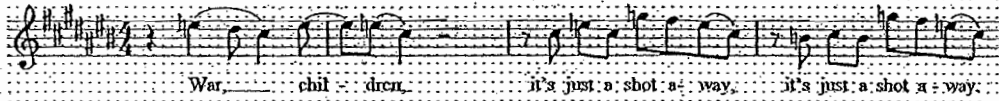
Repeat ad lib. and fade

A E A E A E B E B

"Gimme Shelter" (Mastertone)

Performed by The Rolling Stones

33



War, chil : dren, it's just a shot a : way, it's just a shot a : way.

Note: These pitches are sung somewhat imprecisely on the recording.

To Coda

cod - yeh - jin - gan - na - de - a - way -
read - bull - ka - your way -
is - I - ch - gan - na -

Chorus:

War - cho - dia - It's just a shot a - way -

1:08

E A E A E B E B C
It's just a shot a - way - War - cho -

B A E A E B E B
dia - It's just a shot a - way - It's just a shot a - way -

1:16

D



RECYCLED

Exhibit D to the
Witness Statement of Judith Finell
Submitted with the
Copyright Owners Disk Exhibits

Track List	
Track 1	HollaBack Girl
Track 2	HollaBack Girl Mastertone
Track 3	Gimme Shelter
Track 4	Gimme Shelter Mastertone



Mobile Media Production

Version 1.1

Date 08/21/2007

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Sony BMG Music Entertainment Confidential

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5.2	The 3 “Derivative Masters”.....	Error! Bookmark not defined.
5.3	Example Image: The AC/DC Logo.....	Error! Bookmark not defined.
5.4	The Square Master.....	Error! Bookmark not defined.
5.5	Do not crop too close.....	Error! Bookmark not defined.
5.6	Do not add a “mat” or “bars” to create a derivative master.....	Error! Bookmark not defined.
5.7	The “3 by 4” and “4 by 3” Derivative Masters.....	Error! Bookmark not defined.
5.8	Examples of acceptable derivative masters.....	Error! Bookmark not defined.
5.9	Identifying derivative masters in the MMDS.....	Error! Bookmark not defined.
5.10	Derivative Master Format Requirements.....	Error! Bookmark not defined.
5.11	Tools to use for graphic production.....	Error! Bookmark not defined.

1 Document purpose

This document is intended to be used by internal staff and to give our partners a better understanding of how a mobile media is produced at Sony BMG. The following pages outline the production process in detail and will explain how master files are produced. These masters are organized in the MMDS (Mobile Media Data Store). They are used to create ringtones and images for various handsets that can be distributed to content licensing partners (such as Vodafone) or be distributed via the Company's own, direct to consumer offerings via the "Sony Music Box" web and wap application.

2 Mobile Content and Delivery

All files delivered by Sony BMG are ready to be used and do not require any postproduction. We provide our partners with all requested file formats. The following is list of all currently supported file formats: mp3, smaf, qcelp, aac, amr-nb, amr-wb, adpcm, mif, wma and wav for audio, Jpeg, gif, bmp and png for graphics. These formats are created using our transcoder. All files are delivered with the appropriate DRM setting (for example a SMAF – "no transfer flag"). If a client chooses to wrap a file with DRM protection, it needs to be referenced in the contract.

2.1 The Transcoder

The transcoder is an application that can process multiple uncompressed master wave files (usually in form of a set of songs) and create all desired file formats for each master. The resulting set of files is then packed into a zip file and delivered to the partner. A manifest with a list of all files (song titles) and formats is also generated and included with the zip file. This manifest includes the song title, artist name, album, genre and file format information.

2.2 A Note On High Quality Master Files

Sony BMG does not deliver high quality digital audio files to our partners for further processing. All processing is done by Sony BMG to the specifications of the partner which have been communicated via the PartnerWeb.

3 Getting Mobile Media from Sony BMG

3.1 The PartnerWeb

The PartnerWeb is a web interface that allows our partners to specify a set of file formats for their handsets. The partners can choose from a list of file formats. They can also specify file size. For audio files, EQ and compression settings can be chosen. Once the partner is finished with the selection, the account is locked and our engineers will create the appropriate definitions for the transcoder. Before there is any content delivered, our engineers usually create a test package with just a few files to make sure all the settings are correct and our partners are satisfied with the result.

3.2 Device Approval

Each device a partner wants to send content to needs to be approved by Sony BMG in writing. In general, a device that does not provide for a secure file delivery and forward locking mechanism will not be approved.

4 Digital Audio Ringers

4.1 Relevant Excerpts

The first and most important criteria of digital audio ringers, or what we refer to as "Mastertones," is that they contain the quintessential element of the composition. In pop terminology, this is often referred to as the "hook," called this because it functions to be a theme that hooks you into the structure of the composition. The hook is repeated from one to several times throughout the composition, and in this way creates a framework for musical development and embellishment. It can take several forms. In many cases it is a complete chorus, consisting of multiple phrases, which may comprise a B section of an ABACB song form. Other times it is a brief refrain that rounds out each verse. Other times it is an instrumental melody that punctuates the musical turnarounds. It is a theme that is colored at each iteration by its musical context, and all other parts of the composition function to create that context.

4.2 Choosing The Right Iteration

Although you may find the hook often peppered throughout the composition, all iterations are not equal. The final iterations, which are referred to as the recapitulation, are often embellished to create a greater dynamic and intensity with respect to the earlier iterations. For this reason, they are often more complex, and less accessible than the simpler and purer early iterations of the theme. For ringtones, we want the distilled version of the theme in its most recognizable form. This is almost always either the 1st or 2nd iteration. In the case of many songs, such as with many contemporary R&B tracks, the second iteration is

already too embellished to clearly illustrate the theme. In other tracks it takes until the 2nd iteration for the dynamic or orchestration to develop enough to present a full exposition of the theme. Other than intuition, the decision about which of these two iterations should be chosen must be based on the goal of achieving a clarity of presentation. In any case, you are almost always choosing between a couple of segments that fall within the first 50% of the recording.

4.3 Framing

Once an area of the recording has been chosen, it is then necessary to begin choosing individual in and out points for each edit. Since ringtones are short excerpts that can be truncated at any time by the answering of the phone, the likelihood that a particular second of audio is going to be heard by the surrounding audience steadily diminishes from front to back. This, combined with the abrupt and unwarranted initiation of phones ringing, shifts the weight of importance greatly towards the head of each edit. That is why a clean entry of the theme is sought whenever possible, without any preceding material such as lines from the pre-hook, or pre-chorus, or developmental instrumentation such as drum fills. These things tend to confuse the presentation of the theme without the context of the entire song being there.

For songs that have a chorus-hook where the first line is the most important, this emphasis on the head of the edit is not a problem, and in fact it is very synergistic. In a refrain song structure, or a chorus-hook wherein the last line is the most important, these forces act in opposition. (Proper songwriting technique dictates that almost never are the middle lines in a chorus-hook the most important, even though they may even contain the words from which song title was derived.) Dealing with this opposition is done on an edit by edit basis, as a function of the length and type of edit.

4.4 The Transcoder – More than meets the Eye

In order to have a meaningful discussion of the different types and lengths of edits, we must talk about the transcoder and what it is meant to do.

The transcoder takes edit points that are supplied by the sound engineers and uses them to decide on an edit. It takes this edit and fades it, loops it, or merely extracts it. Subsequently it encodes it and/or compresses it to a mobile or preview audio format spec, and may or not enclose this result in one of various "wrapper" file formats. The number of possible permutations of this procedure has no upper bound. Each handset in the marketplace corresponds to one or a few of these permutations.

An obvious advantage of the transcoder is to expedite workflow. It takes the signal processing component and file encoding processes out of the equation for ringtone makers.

The main reason why the transcoder came about, however, is for the purpose of keeping up with erratically changing client specifications that are part and parcel of an evolving media space. In particular, it is the SIZE of the resulting media file that must be able to conform to an arbitrary specification on the fly. This

represents a distinct change in the paradigm of production for ringtone engineers. Now instead of firm cuts in the media that result in predictable output with albeit little device specificity, the ringtone engineer puts in edit points so that the transcoder is able to make a more informed decision as to where to cut the file, incorporating target data.

4.5 Edits And Their Classes

4.5.1 Non Looping Edits

At the time of this writing, the policy of the transcoder is to accept the largest edit that fits between fifty and a hundred percent of the maximum length possible for the spec. This works nicely with the majority of songs because most are conceived in balanced phrases that work well in quantities that are some power of 2.

With this policy, a musically framed edit will usually satisfy the requirement of the transcoder

Example: If the required maximum file length is 18 sec for a particular handset and there is a 12 second and a 19 sec edit, the transcoder will choose the 12 second edit to create the file. This produces a ringtone that is more musical. This method is much preferred to extending the 12 sec edit to 18 sec.

If the required file length is exactly 18 sec, the transcoder will use the next smaller edit, in this case 12 sec and extend it to 18 sec. The start of point will not be changed only the end point. The resulting ringtone will not be as musical but will have at least have a musical beginning. In general we try to generate only musical ringtones for our partners. This way our content is presented in the best possible way.

4.5.2 Perfect Loops

Perfect loops are treated differently. These are an entirely separate class of edits with separate policies. Perfect loops are not resized. In general, perfect loops will not be used as non looping edits, and vice versa. However, in cases where a perfect loop is sought that is too distant from any existing available perfect loop edits, a non-looping edit will be selected and faded with a brief pause at the end, in order to create an acceptable non-looping behavior on a device that only supports perfectly looping files.

4.6 Finding The Right Edit

A general method for finding all the useful edits for the hook area is outlined as follows:

4.6.1 The Smallest Edit

Find the smallest indivisible musical unit, encapsulating the meat of the hook, that exceeds 4 seconds. Often times here we are talking about 1 vocal phrase. The first edit should consist of this unit plus whatever additional audio can be added to the back end before entering another indivisible musical region or vocal phrase. On the back end, cutting right before the transient of a downbeat is desirable

when possible. Generally this would be done if the subsequent indivisible region enters on or after the down beat. The beginning of the edit should in most cases be the first word or note of the musical phrase, which may be before, on, or after the down beat. Any more material prior to that is considered clutter, (except for a subset of the cases wherein the down beat can be included in the clip prior to a phrase that begins a little later, for when metric context defines a theme—this is of course only possible when the down beat isn't covered by a prior phrase).

4.6.2 The Next Edits

The next largest edit should be musically balanced. In systems where powers of 2 are used for balance, this would generally mean doubling the prior number of phrases. If the number of phrases in the edit from step 1 is 2, then use a 4 phrase system that telescopes out from the meat of the hook, to enclose a greater part of the same area. For instance, if the first edit came from 2 phrases at the back of a 4 phrase chorus, the full 4 phrases of the chorus would be used for the next edit. You wouldn't generally use the same 2 phrases as the first edit plus 2 subsequent phrases from the next musical section. What we are seeking is a hermetically sealed musical unit that stands well on its own. As much as possible, we want to avoid creating edits that sound like fragments of something else. Repeat step 2 until you have reached the largest edit using this method that is under 25 seconds.

In some of the more interesting songs you will find things like a balanced quad of phrases, followed by another tag phrase afterwards which belongs to the same song component. In those cases, you can put an edit in for both the quad and the quad plus extra phrase. (In the case of something like an ABXB five line rhyme scheme, the quad may not make sense, musically or semantically, without the last phrase.)

Using this technique you will find that you will usually end up with a maximum of 2 or 3 non-looping edits. This is owed to the fact that 4 times the minimum length of 4 seconds is 16 seconds, and twice that is over our maximum. In a song with a set tempo and form, there are only a few permutations of edits of the hook that are balanced and make musical sense to stand on their own.

4.7 Sample Surgery

The most time consuming aspect of the edits is the perfect loop(s). We are looking to meet the same general criteria as listed above, but with a few additional parameters:

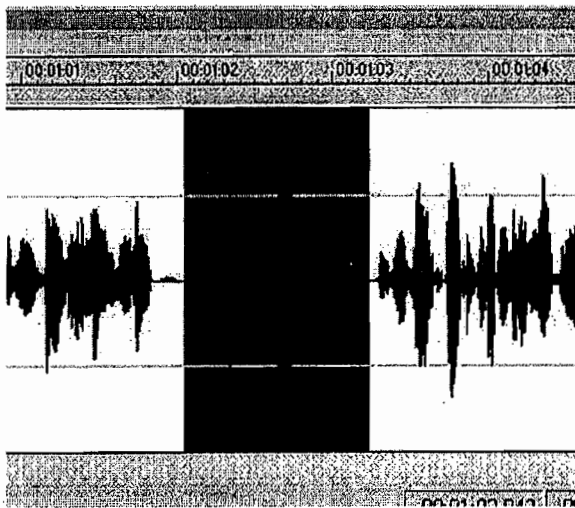
- Loops should match the meter grouping of the phrase systems. 2 measure phrases should have a loop that is 2 measures. 2 x 2 measure phrases should have a loop that is 4 measures, etc. In some cases there are odd metric phrases, such as three measures of 4/4 in the chorus. In yet other cases, there may be random metric changes such as a measure of 2/4 in a 4/4 context that is an integral part of the phrase. These are rare cases. A loop should never contrive a 2/4 measure out of a 4/4 measure in order to make a loop work. Anything that sounds metrically awkward is not convincing as a perfect loop

- In order to make loops consisting of whole measure lengths, the position of the out point in the meter must be matched to the position of the in point in its respective meter. Since this isn't always on a rational subdivision of the meter, absolute time must often be the scale of measurement. Since tempo is subject to change within a song, particularly in recordings not made "to a click," care must be taken to reduce the likelihood of time scale discrepancy. This means that edit points should be measured to the nearest distinct (and in time) transient in the waveform. Since errors of scale manifest themselves in proportion to the absolute length in question, this procedure minimizes the margin of absolute error. Measure by selecting the area from the in point sample to the crest of the nearest said transient. Put the out point in the same relative position. If the in point is 126ms-ahead of the upbeat of beat 3, put the out point in the same position with respect to the appropriate measure.
- Often times the out point must be the point of reference, because of a subsequent phrase entering earlier than the 1st phrase of the edit. Simply match the entry point to the back as described above.
- The transition from the back to the front of a loop should be as smooth as possible. If both happen to be on a down beat, the task is easy. Just cut right on the "zero crossing" right before the transient of each down beat. (I say "zero crossing" because there is really no such thing as a zero crossing in a truly stereo wave, due to the remote likelihood of the two channels both crossing "zero" at the same time. Cutting at some approximation of the latter helps the engineer to test the loops within Soundforge and listen for any disturbing behaviour of the loop. A "pop" or "click" resulting from the back and front being misaligned can confuse the listener's perspective regarding the timing of the loop. The transcoding process will fade the first and last few samples to create a smooth transition on final output, but the engineer should be able listen critically to the smoothness of the loop before shipping it to the datastore). Accurate measurements, such as those described in the previous paragraph, help to ensure a smooth musical timing. Sometimes, however, entering in the middle of the decay of a cymbal, for instance, can make an entry point sound rough. In these cases, try moving the entry point to the attack of the cymbal, and moving the back end to the same musical position in the meter.
- Warning! Although words that begin with a vowel or a plosive consonant will enter right on a musical subdivision of the measure, such as on a down beat, other words will not. When sung properly, words that begin with non-plosive consonants anticipate the beat, and it is the subsequent vowel sound that demarcates the beat. Vowels ring out more, with greater SPL, and act as an attack for the note. Fricatives like f,v,s,j, etc. are softer and go in front. This means that you must compensate using the measurement technique described above to include the beginning of the word. Don't just indiscriminately cut on beats!
- If the phrases change position in the meter from one phrase to the next in such a way that it is impossible to create a loop consisting of complete measures that represent the musical systems of the song, then omit the loop for this length range. Try to find a loop in a different range of length.
- If 2 acceptable loops fall between 4 and 15 seconds, the more the merrier. Loops longer than this add little to the pot. There are no known devices that support perfect loops longer than 15 seconds. If there were, however, they would have an effect not much different than fading a non-

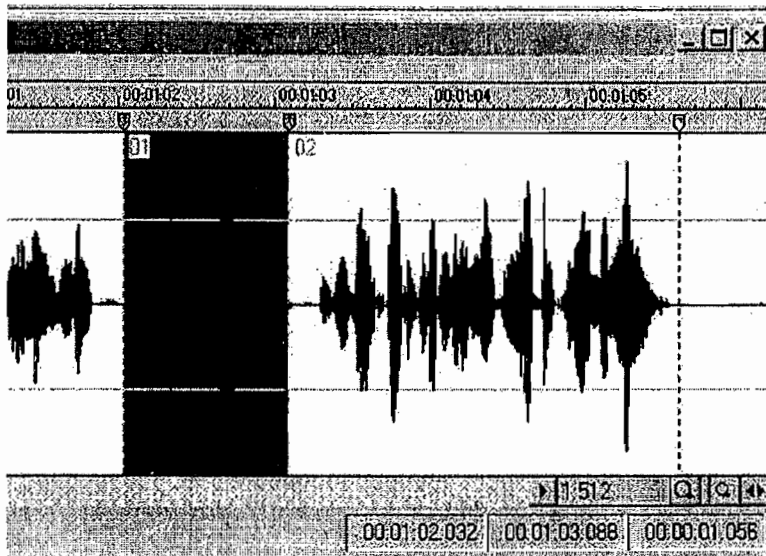
looping edit for the task, due to the fact that the ringtone wouldn't ever be able to complete a full repeat. (Also, perfect loops lose their looping "wow factor" if the loops are too long to appreciate the transition and repetitive nature of the phrase. Loop music as it is known in dance music almost never consists of loops longer than 4 measures. In most cases it sounds better for the transcoder to choose a medium to short sized loop.) Extra long loops won't hurt the final product, but they will cost a lot of extra production and quality control time for very little return.

4.8 Tools To Use For Digital Audio Production

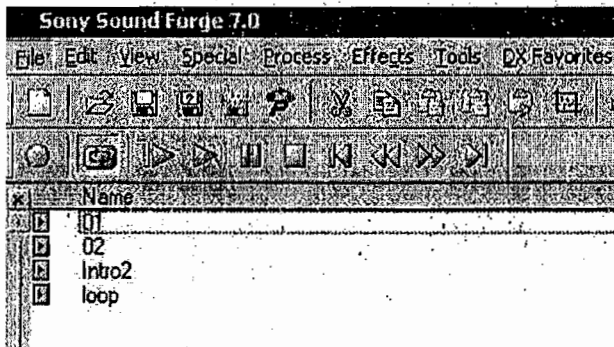
The tool that we use for digital audio production is **Soundforge**. The original audio file (the full length song) should not be changed with this application. All edits for one piece of audio are saved in a single **SFL** file that is saved separately. The **SFL** file contains all the regions (edits) that have been applied to the wave file. There are two ways of selecting a region. The first is to select the desired region in the wave window and then clicking "r". Then you can name and save the region.



The other way is to drop markers (keyboard shortcut "m") at the in and out point of the region and then save it



All created regions will be displayed in the region list. It is important to name any looping region with the name "loop". The names for the other regions is not important (as long as they are not called "loop"). The transcoder will treat all regions with the name loop as looping content. All the other regions are treated as non-looping edits.



When all the edits are created the "SFL" file has to be saved. Go to the "Special" – menu, choose "Region List" and "Save As...". It is best to keep the file in the same folder with the wave file.

The filenames of both SFL and the Wav file will must contain the Gridnumber surrounded by the carat signs.

Example:

Beyonce_Alarm ^G0100009531343^ .wav

Beyonce_Alarm ^G0100009531343^ .sfl

You will then download and install the Ingestor Application from MMDS and ingest these 2 files.



“IRREPLACABLE”

Sound Recording
(Sony BMG CD Track 1)

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 3 minutes, 48 seconds 	<ul style="list-style-type: none"> • Introduction/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Bridge/ Interlude/ Chorus 3/ Chorus 4 	<ul style="list-style-type: none"> • “You must not know 'bout me” • First iteration at second 44 • Occurs sixteen times

Mastertone
(Sony BMG CD Track 2)

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 4 seconds 	<ul style="list-style-type: none"> • “You must not know 'bout me, you must not know 'bout me” • Beginning of Chorus 1 • Primary hook • Two contiguous iterations 	<ul style="list-style-type: none"> • First and second iterations of primary hook 	<ul style="list-style-type: none"> • Second 44 	<ul style="list-style-type: none"> • Second 48 	<ul style="list-style-type: none"> • Simple iterations without musical distractions • Loop creates traditional harmonic progression • Contains two symmetrical phrases

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

“...BABY ONE MORE TIME”

Sound Recording
(Sony BMG CD Track 7)

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 3 minutes, 29 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Interlude/ Bridge/ Chorus 3/ Chorus 4 	<ul style="list-style-type: none"> • “Hit me baby one more time” • First iteration minute 1, second 00

Mastertone
(Sony BMG CD Track 8)

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 11 seconds 	<ul style="list-style-type: none"> • “My loneliness is killin’ me and I, I must confess I still believe, (I still believe)” • Beginning of Chorus 1 • Not hook 	<ul style="list-style-type: none"> • First iteration 	<ul style="list-style-type: none"> • Second 42 	<ul style="list-style-type: none"> • Second 53 	<ul style="list-style-type: none"> • Simple iteration without musical distractions • Cut so that loop creates traditional harmonic progression and smooth rhythmic transition • Musically balanced, contains 4 bars

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

"GIRLS JUST WANT TO HAVE FUN"

Sound Recording
(Sony BMG CD Track 10)

DURATION'	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 3 minutes, 55 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Bridge 1/ Chorus 3/ Instrumental interlude/ Verse 3/ Chorus 4/ Bridge 2/ Chorus 5/ Coda 	<ul style="list-style-type: none"> • "Oh, girls just wanna have fun" • First iteration at second 32 • Occurs fourteen times, always varied after first iteration

Mastertone
(Sony BMG CD Track 11)

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 6 seconds 	<ul style="list-style-type: none"> • "Oh, girls just wanna have fun" • End of Chorus 1 • Primary hook 	<ul style="list-style-type: none"> • First iteration 	<ul style="list-style-type: none"> • Second 32 	<ul style="list-style-type: none"> • Second 38 	<ul style="list-style-type: none"> • No overlapping with other vocal melodies • Additional bar after primary hook to include balanced iteration of instrumental hook

1 Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

"THAT'S ALL RIGHT"

Sound Recording
(Sony BMG CD Track 15)

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 1 minute, 55 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Instrumental interlude/ Verse 3/ Chorus 3/ Interlude/ Chorus 4/ Coda 	<ul style="list-style-type: none"> • "That's all right" • First iteration at second 15 • Primary hook and variations occur eleven times

Mastertone
(Sony BMG CD Track 16)

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 6 seconds 	<ul style="list-style-type: none"> • "Well, that's all right Mama / that's all right for you" • Beginning of Verse 1 • Not hook 	<ul style="list-style-type: none"> • Only iteration of title lyrics within a verse section 	<ul style="list-style-type: none"> • Second 05 	<ul style="list-style-type: none"> • Second 11 	<ul style="list-style-type: none"> • Question and response structure, in which the "statement" (first phrase) has an "unresolved" quality, and the "response" (second phrase) provides the resolution

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

"MY LOVE"

Sound Recording
(Sony BMG CD Track 18)

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 4 minutes, 36 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Chorus A-1/ Chorus B-1/ Verse 2/ Chorus A-2/ Chorus B-2/ Rap/ Chorus A-3/ Chorus B-3 	<ul style="list-style-type: none"> • "See all I want you to do is be my love" • First iteration at minute 1, second 04 • Occurs three times, plus phrase with nearly identical melody: "Ain't another woman that can take your spot, my love" that occurs six times (first iteration at minute 1, second 11)

Mastertone
(Sony BMG CD Track 19)

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 4 seconds 	<ul style="list-style-type: none"> • Beginning of Chorus B-1 • Primary hook: "See all I want you to do is be my love" • Primary motive (or linking phrase): "So don't give away" • Secondary hook: "My love" 	<ul style="list-style-type: none"> • First iteration of primary hook • First iteration of primary motive • First iteration of secondary hook 	<ul style="list-style-type: none"> • Minute 1, second 04 	<ul style="list-style-type: none"> • Minute 1, second 08 	<ul style="list-style-type: none"> • Pure and recognizable, without musical distractions or variations • Contains beginning phrase (primary hook), linking phrase, plus subsequent phrase (secondary hook), which creates balance

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

"SEXYBACK"

**Sound Recording
(Sony BMG CD Track 22)**

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 4 minutes, 01 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Bridge 1/ Chorus 1/ Verse 2/ Bridge 2/ Chorus 2/ Interlude 1/ Verse 3/ Chorus 3/ Coda 	<ul style="list-style-type: none"> • "Go ahead, be gone with it" • First iteration at second 50

**Mastertone One
(Sony BMG CD Track 23)**

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 16 seconds 	<ul style="list-style-type: none"> • "I'm bringing sexy back. Them other boys don't know how to act. I think you're special, what's behind your back? So turn around and I'll pick up the slack." • Verse 1, except final 5 beats • Identifying theme • Not primary hook 	<ul style="list-style-type: none"> • First iteration of three 	<ul style="list-style-type: none"> • Second 14 	<ul style="list-style-type: none"> • Second 31 	<ul style="list-style-type: none"> • Contains beginning, middle, and end • Four complete vocal phrases

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

“OVER MY HEAD”

**Sound Recording
(Sony BMG CD Track 25)**

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 3 minutes, 53 seconds 	<ul style="list-style-type: none"> • Intro/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Chorus 3/ Bridge/ Interlude/ Chorus 4/ Coda 	<ul style="list-style-type: none"> • “Everyone knows I’m in over my head, over my head” • First iteration at second 37 • Occurs four times

**Mastertone
(Sony BMG CD Track 26)**

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 7 seconds 	<ul style="list-style-type: none"> • “Everyone knows I’m in over my head, over my head” • Chorus 2 • Includes primary hook 	<ul style="list-style-type: none"> • Second iteration of chorus 	<ul style="list-style-type: none"> • Minute 1, second 34 	<ul style="list-style-type: none"> • Minute 1, second 43 	<ul style="list-style-type: none"> • Contains beginning, middle, and end • Rhythmically balanced, beginning with upbeat on beat four and ending on beat three

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

"HOLLABACK GIRL"

**Sound Recording
(Exhibit D, Track 1)**

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> • 3 minutes, 17 seconds 	<ul style="list-style-type: none"> • Intro/Chorus 1/Verse 1/Chorus 2/Verse 2/Chorus 3/Interlude/Chorus 4 	<ul style="list-style-type: none"> • Hook 1 (spoken) "I ain't no hollaback girl" • First iteration at second 09 • Hook 2 (sung) "oo, this my sh*t, this my sh*t" • First iteration at second 24

**Mastertone
(Exhibit D, Track 2)**

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> • 30 seconds² 	<ul style="list-style-type: none"> • "is bananas, B-A-N-A-N-A-S. This is bananas, B-A-N-A-N-A-S. Again this" • Beginning of Interlude • Identifying theme • Not hook 	<ul style="list-style-type: none"> • First iteration of identifying theme 	<ul style="list-style-type: none"> • Minute 2, second 24 	<ul style="list-style-type: none"> • Minute 2, second 41 	<ul style="list-style-type: none"> • Four rhythmically balanced phrases • Mastertone segment includes one call phrase and one response phrase in immediate succession

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the whole second.

² This mastertone is repeated consecutively, with a slight pause between each repeat. The fourth and final repeat is incomplete, ending on beat 1 of bar 68 (lyric, "A") at second 30.

"GIMME SHELTER"

**Sound Recording
(Exhibit D, Track 3)**

DURATION ¹	STRUCTURE	PRIMARY HOOK
<ul style="list-style-type: none"> 4 minutes, 31 seconds 	<ul style="list-style-type: none"> Intro/ Verse 1/ Chorus 1/ Verse 2/ Chorus 2/ Instrumental interlude/ Chorus 3/ Verse 3/ Chorus 4/ Coda 	<ul style="list-style-type: none"> "It's just a shot away" First iteration at minute 1, second 12 Occurs 19 times

**Mastertone
(Exhibit D, Track 4)**

DURATION	SEGMENT USED	ITERATION USED	BEGINNING POINT	CONCLUSION POINT	COMMENTS
<ul style="list-style-type: none"> 30 seconds² 	<ul style="list-style-type: none"> "War, children, it's just a shot away, it's just a shot away" Beginning of Chorus 1 Includes two iterations of the hook 	<ul style="list-style-type: none"> First and second iterations of the hook 	<ul style="list-style-type: none"> Minute 1, second 08 	<ul style="list-style-type: none"> Minute 1, second 16 	<ul style="list-style-type: none"> Iteration containing simplest accompanimental material

¹ Duration and timing indications are according to Windows Media Player timer, which approximates to the who's second.

² This mastertone is repeated twice consecutively, followed by a brief pause, then repeated twice consecutively again. The fourth and final repeat is incomplete, ending on beat 3 of bar 35 (lyric, "shot") at second 30.