

The Process of Re-recording Minnie Riperton's album *'Love Lives Forever'*

by: Art Phillips (2011)

INTRODUCTION

CASE STUDY: LOVE LIVES FOREVER

The re-recording process of the Minnie Riperton album, *Love Lives Forever*, is a unique case study as it incorporates artistic challenge, entrepreneurial management, marketing and technical skill, business law and ethics (including copyright law and the art of negotiation). It's an example of commercial success by increasing market appeal with the incorporation of other artists performing duets with the deceased artist, therefore producing a stronger and wider audience focus, and a long income trail with the copyrights contained in the release, not unlike the 'long-tail' effect where the life trend and income streams becomes bigger and longer by engaging new markets and innovative delivery methods. (Anderson / 2004) 'The theory of the Long Tail is that our culture and economy is increasingly shifting away from a focus on a relatively small number of "hits" (mainstream products and markets) at the head of the demand curve and toward a huge number of niches in the tail'.

<http://www.longtail.com/about.html>

Re-recording Riperton's *Love Lives Forever* (album project) involved a technical process that was very advanced for its time.

Minnie Julia Riperton (born November 8, 1947) was an American singer-songwriter best known for her vocal range of five-and-a-half octaves and her hit 1975 single 'Lovin' You'. She was married to songwriter and music producer Richard Rudolph from 1972 until her death in the summer of 1979.

The re-recording of Riperton's album, *Love Lives Forever*, took place one year after her passing.

ABOUT RIPERTON

Riperton grew up in Chicago, Illinois USA, and as a child she studied music, drama and dance. In her teens she sang lead vocals for the Chicago-based group, The Gems. Her early affiliation with the legendary Chess Records afforded her the opportunity to sing backup for various established artists such as Etta James, Ramsey Lewis, Bo Diddley, Muddy Waters and Chuck Berry. During her time with Chess she also sang lead vocals with the soul group the Rotary Connection (1967 ~ 1971).

In April 1975 Minnie had a number one hit single entitled 'Lovin' You' from her 1974 album Perfect Angle. <http://www.youtube.com/watch?v=GPxr7ULFCKY>.

In addition to her numerous hits, she is remembered for her rare and natural ability to sing in the extreme high registers. She very comfortably was able to execute a five and a half octave range, according to the album notes on Petals, the legacy album.

Her clear tones in the high register is notably heard in the song 'Here We Go' (Rudolph / Phillips), and can also be heard on selections such as 'Inside My Love', 'Adventures In Paradise' and 'You Take My Breath Away, to name a few.

Mariah Carey has claimed that her greatest influence was Minnie Riperton. Mariah also had an extended vocal range and was able to smoothly execute the high registers effortlessly.

In January 1976, Riperton was diagnosed with breast cancer and underwent a radical mastectomy. By the time she was diagnosed, the cancer had metastasised and she was given only six months to live. Despite the grim prognosis, however, she continued recording and touring. Riperton was one of the first celebrities to go public with her breast cancer diagnosis. In 1977, she became spokesperson for the American Cancer Society. In 1978, she also received the American Cancer Society's Courage Award which was presented to her at the White House by President Jimmy Carter.

Minnie passed away on July 12, 1979 – she was only 31 years of age.

This case study explores the processes required to re-record Riperton's album 'Love Lives Forever', the reasons behind the re-recording and the longevity of the work and copyrights contained therein by engaging new markets and new forms of delivery methods.

THE INDUSTRY

MUSIC AND THE PERFORMING ARTS

The music industry (or music business) sells compositions, recordings and performances of music. Among the many individuals and organisations that operate within the industry are the musicians who compose and perform the music, the companies and professionals who create and sell recorded music (for example music publishers, producers, studios, engineers, record labels, retail and online music stores, performance rights organisations), those who present live music performances (booking agents, promoters, music venues, road

crew), professionals who assist musicians with their careers (talent managers, business managers, entertainment lawyers), those who broadcast music (satellite and broadcast radio), journalists, educators and musical instrument manufacturers.

In the late 19th and early 20th centuries, the music industry was dominated by the publishers of sheet music, but by the middle of the 20th century records had overtaken sheet music as the largest player in the music business: in the commercial world people began speaking of 'the recording industry' as a loose synonym of 'the music industry'. As we entered the 21st century, sales of recorded music had begun to drop off substantially, while live music has only increased in importance. Four 'major corporate labels' now dominate recorded music – Universal Music Group, Sony Music Entertainment, Warner Music Group and EMI. Each of these consists of many smaller companies and labels, which serve different regions and markets.

BUSINESS STRUCTURE

The music industry is a complex system made up of many different organisations, firms and individuals. It has also undergone dramatic changes in the 21st century and its current business model continues to change. It is fair to say, however, that the majority of the participants in the music industry still fulfil their traditional roles, which are outlined below.

RECORDED MUSIC

There are three types of property that are created and / or sold by the recording industry: Musical works (compositions), sound recordings and the media format where they are contained, such as record albums, CD's or mp3's and the likes of the many digital platforms now available.

There may be many recordings of a single composition, the original released song version and cover recordings, the term used when an artist, other than the first recorded artist version, records or covers a musical composition for it's second or subsequent release. Recordings are typically distributed in a variety of media forms and delivery methods.

MUSICAL COMPOSITIONS

Musical works are created by music composers - the songwriter. The composer may assign the work to a music publisher to gain benefits associated with future recordings of the work.

The publishing company collects publishing royalties when the composition is used. A portion of the royalties are then paid to the composer. Typically (although not universally), the publishing company will provide the owner with an advance against future earnings when the publishing contract is signed. A publishing company will also promote the compositions, for example, they will attempt to find placements; called synchronization; on television shows, feature films or cover recordings by other artists.

RECORDINGS

Recordings are created by recording artists and assisted generally by a record producer and sound engineers. The record producer oversees many aspects of the recording, making many of the logistic, financial and artistic with the label and with the artist. The recording engineer is responsible for the audio sound quality of the recording. The final master recording is traditionally owned and controlled by the record company.

The Recording Agreement

The contract specifies the business relationship between a recording artist and the record company. In a traditional contract model, the company provides an advance to the artist who agrees to record music that will be owned by the company. The A&R (Artist and Repertoire) department of a record company is responsible for finding new talent for the record label, locating songs for their existing recording artists and overseeing the recording process. The company pays for the recording costs and the costs of promoting and marketing the record.

Smaller independent labels, referred to as 'indies' will form business relationships with other companies to handle many of these tasks in the form of a distribution deal. The record company pays the recording artist a portion of the income from the sale of the recordings – this is generally known as an artist mechanical royalty and is distinct from the publishing royalty described above. This portion is similar to a percentage, but may be limited or expanded by a number of factors (for example: recoupable expenses, promotional give-aways, bonuses, etc.) that would be specified in the record contract.

MEDIA

Physical media (CDs) are sold by music retailers and are owned by the consumer. A music distributor delivers the physical media from the manufacturer to the retailer and maintains relationships with retailers and record companies. The music retailer pays the record company for the recording, and in turn the record company pays the recording artist and the

publishing company, who then pay the composer. In the case of digital downloads, there is no physical media other than the consumer's hard drive; here the consumer has purchased a right rather than a physical object. In some cases the rights extend to freely sharing the recording, but in other cases the right is restricted to storing the music on a specific number of hard drives.

There are many other income streams available to the recording artist and owners of music copyrights, such as sheet music and broadcasting performance rights. When a song is broadcast, the performing rights societies throughout the world collect a performance royalty. Performance rights organisations collect royalties for writers and music publishers. When a song is used in a film or television broadcast a further fee is paid through a synchronisation license.

In addition to these traditional business relationships, new ways of doing business continue to be developed in the 21st century. The traditional lines that once divided artist, publisher, record company, distributor, retail and consumer electronics have become blurred. Artists may own their own publishing companies, artist management companies may promote and market recordings on behalf of their clients, consumer electronics companies have become digital music retailers, and so on, and in many variations. New digital music distribution technologies have also forced both government and industry to re-examine the definitions of intellectual property and the rights of all the parties involved.

In the case of the re-recording of Riperton's *Love Lives Forever*, we find examples of innovative market exploration, the use of various 21st century digital technologies and numerous subsequent cover recordings by other artists and copyright deals still taking place today, over 30 years after.

LIVE MUSIC

The business of live music is different again. Concert promoters work to bring together the artist, the venue and organised the business agreements. Generally a booking agent represents the artist, makes the deals and also books the dates.

A promoter brings together a performing artist and a venue owner and arranges contracts. A booking agency represents the artist to promoters, makes deals and books the live performances. Choices about where and when to tour are decided by the artist's management and the artist, sometimes in consultation with the record company. Record

companies may provide tour support; they may finance a tour in the hopes that it will help promote the sale of recordings. However, in the 21st century, it has become more common to release recordings to promote tours, rather than book tours to promote records. This is the opposite to what our industry had experienced during the previous 70 years or so.

ARTISTIC MANAGEMENT

An artist may hire a number of people from other fields to assist them with their career. For example, an artist's manager will oversee all aspects of an artist's career in exchange for a percentage of the artist's income. A successful artist functions in the market as a brand and, as such, may derive income from many other streams, such as merchandise or internet-based services. These are typically overseen by the artist's manager and take the form of relationships between the artist and companies that specialise in these products.

An entertainment lawyer will assist an artist with the details of their contracts with record companies and other deals. A business manager will handle financial transactions, taxes and book-keeping.

PERFORMING RIGHTS ORGANISATIONS (PROs)

Other than their primary purpose as an intermediary between rights holders and customers, performing rights organisations are highly active in legal arenas. They are able to take alleged rights violators to court, and can lobby on behalf of rights holders, especially in discussions of legal royalty rates.

The licensing services provided by a PRO arguably provide advantage to customers who can simultaneously license all works the PRO represents.

Performance royalties are tracked and paid out by the performance rights organizations like ASCAP, BMI, APRA and the various organizations around the globe. The royalty stream begins when the song is registered with one of the three performing rights organizations mentioned above. Once a song is registered, it becomes part of that PRO's collection and is available to all of its users. Most of those users have a "blanket license" to use any or all of the PRO's music, however some users license on a per program basis and only pay for the music they actually use. The PROs deduct money for their operating expenses and the rest goes to the songwriters and publishers.

PRO customers include just about anyone who plays music in a public place - even those

who play "music on hold" music for their business. These include television networks, cable television stations, radio stations, background music services, colleges and universities, concert presenters, symphony orchestras, web sites, bars, restaurants, hotels, theme parks, skating rinks, bowling alleys, circuses, et cetera - if they play music, they have to have a license and pay royalties. (Lee Ann Obringer / 2011)

THE AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED (APRA)

The Australasian Performing Right Association Limited (APRA) was established in 1926 and now administers the performing and communication rights of over 62,000 composer, songwriter and music publisher members in Australia and New Zealand. Public performances of music include music used in pubs, clubs, fitness centres, shops, cinemas and festivals, whether performed live, on CDs or played on the radio or television. Communication of music covers music on hold, music accessed over the internet, and music used by television or radio broadcasters.

APRA works to ensure that composers, songwriters and publishers are rewarded whenever and wherever their musical works are played, performed or reproduced. They also help Australian and New Zealand music consumers obtain access to the world's musical repertoire.

More than just acting as a collecting society, however, APRA provides support and guidance to its members, through specialist departments for the various areas. (For more information about APRA and how to become a member, see <http://www.apra-amcos.com.au>.)

(APRA website – 'about' menu / 2011)

The major players in the recording industry:

(Lee Ann Obringer / 2011)

- **Songwriter** - The songwriter is the person (or people) who write the lyrics and melody for songs.
- **Publisher** - The publisher is the person (or company) who works with the songwriters to promote their songs. Publishers usually get either partial or total ownership of the song copyright, known as "assignment" or "transfer" of the copyright. They pitch the songs to record labels, television or movie producers, or anyone else who may be interested in it. They then license the rights to use the song and charge fees.
- **Performer** - Anyone who licenses the song in order to publicly perform it is the performer,

or performing artist. The performer doesn't have control of the song, it's usually controlled by the songwriter, publisher, or the record label.

- **Recording company** - The recording company creates, markets and distributes the recordings.
- **Performing rights organization (PRO)** - A performing rights organization is an association, corporation, or other entity that licenses the public performance of non-dramatic musical works on behalf of the copyright owners. The major performing rights societies are:
 - The American Society of Composers, Authors and Publishers (ASCAP)
 - Broadcast Music, Inc. (BMI)
 - SESAC, Inc. (formerly the Society of European Stage Authors and Composers)
- **Mechanical rights agency:** The right to record a song, i.e. mechanical rights, for most publishers is obtained through the Harry Fox Agency in the United States, or the Canadian Mechanical Rights Reproduction Agency (CMRRA) in Canada and APRA / AMCOS in Australia & New Zealand. These agencies issue the mechanical royalties for songs, keep track of them, make sure the users pay, and provide statements to the publishers. They charge a set percentage of gross royalty collections for their service.

COMPANIES and ORGANISATIONS

Various entities – including record companies, music publishers, songwriters, musicians, orchestrators, managers and record producers – were involved in the re-recording of Riperton's *Love Lives Forever*. A small selection of these follows.

RECORD COMPANIES

EPIC (CBS) RECORDS <http://www.epicrecords.com>

Epic Records was launched in 1953 by CBS for the purpose of marketing jazz, pop and classical music that did not fit the theme of the more mainstream Columbia Records. Epic's bright-yellow, black and blue logo became a familiar trademark for many jazz and classical releases.

Epic Records is now owned by Sony. Sony bought CBS Records in 1987, and the company was renamed Sony Music in 1991. In 2004, Sony merged with another powerhouse music distributor, BMG, bringing labels such as Epic, Arista, Columbia, RCA, Jive, and many others under one parent company, Sony BMG. In February 2009, singer/songwriter Amanda Ghost was appointed president of Epic Records. Later in the year, Sony BMG Music (during a reconsolidation of labels) merged Epic and Columbia's operations, and subsequently formed the Columbia/Epic Label Group — but both labels continue to operate as separate brands. Sony BMG's Legacy Recordings reissues the company's classic and catalogue titles.

Read more: <http://www.answers.com/topic/epic-records#ixzz1P3qlroLg>

CAPITOL RECORDS

Capitol Records <http://www.capitolrecords.com>

Owned by the EMI group and founded in 1942 by songwriter, Johnny Mercer and screen producer, Buddy DeSylva. The Los Angeles office is a landmark in Hollywood, called the Capital Tower, located near the corner of Hollywood and Vine, with an appearance of a stack of round records on a spindle. The recording studios are historic designed by guitarist and sound expert Les Paul, an innovator of new recording technologies for many decades. His goal was to minimize noise and vibration in the high-fidelity sound era.

The studios feature 10-inch-thick (250 mm) concrete exterior walls, surrounding a one-inch air gap, surrounding an inner wall that floats on layers of rubber and cork — all in an effort to provide complete sound isolation.

The facility also features echo chambers: subterranean concrete bunkers allowing engineers to add real physical reverberation during the recording process. The eight chambers are located 30 feet underground, and are trapezoidal-shaped with 10-inch concrete walls and 12-inch-thick (300 mm) concrete ceilings. The chambers feature speakers on one side and microphones on the other, permitting an echo effect lasting up to five seconds.

MUSIC PUBLISHERS (a select group used for the purpose of this case study)

DICKIEBIRD MUSIC

Richard Rudolph is the co-founder and co-owner of Dickiebird Music, a US based music publisher. The company represents a large music catalogue and many copyrights are works recorded by Minnie Riperton and written by Rudolph. Rudolph currently operates the day to day business for Music Sales (music publishing) USA's West Coast office, and continues to write, produce and record many successful recording artists.

ART PHILLIPS MUSIC PUBLISHING (BMI)

A US based publishing firm owned by Art Phillips of Art Phillips Music Design, an Australian company). Art is the co-writer of Here We Go, a song contained on Love Lives Forever. The composition has benefited from numerous cover recordings since the original release of Riperton.

<http://www.artphillips.com>

MANAGERS

KEN FRITZ ENTERTAINMENT

<http://www.linkedin.com/pub/ken-fritz/21/523/166>

1971 – Present (40 years)

Ken Fritz was the manager for Minnie during this time, subsequently managed George Benson and many other successful artists. Ken is still active today in the music industry and legal arenas.

THE CASE STUDY PROJECT

RE-RECORDING OF MINNIE'S 'LOVE LIVES FOREVER' album.

EPIC RECORDS

Minnie Riperton was signed to Epic records in the mid-70s, during which time she recorded three albums with them. The first was *Perfect Angel*. After the release of the third single from that album sales slowed right down and Epic was ready to move on to the next record, but Richard Rudolph, Riperton's husband and record producer, convinced them to release another single. The track was entitled 'Lovin' You' from the record album *Perfect Angel*. It was a big success, as in the spring of 1975, the song went to the top of the charts in the US and twenty-four other countries. It reached number two in the UK, and number three on the US R&B Billboard charts. It sold more than one million copies and was awarded a gold record award by RIAA (the Recording Industry Association of America) in that same month. *Perfect Angel* went gold, and Riperton was finally revered as the 'lady with the high voice, and flowers in her hair'.

Despite her diagnosis of breast cancer in January 1976, Riperton continued touring and recording for the next three years.

Riperton hired musician/composer Art Phillips as her guitarist in 1977, and he performed and recorded with her over a two-year period. This included working as the support act for George Benson, who at the time had a major hit with his renowned album *Breezin'*, which contained the single 'This Masquerade'.

Riperton, Rudolph and Phillips co-wrote the song 'Here We Go' during this period. It was recorded on the Epic label in 1978 for inclusion on an album – an album that was to be Riperton's third and last with the company, pending a new contract.

At the time, Bobby Colomby, drummer from the band Blood Sweat & Tears (1970), was in charge of A&R (Artist and Repertoire) at Epic Records. Bobby marked 'Here We Go' as the first single from the new album. The entire album was produced by Leonard Caston, and recorded using session musicians such as Randy Waldman (keyboards), Hugh Moran (drums), Jay Graydon and Art Phillips (guitars), Stanley Clarke (bass), and many others. There were seven composition contained on this album.

With Riperton's contract about to expire, and a new agreement being renegotiated, Epic decided to hold the album's debut. As it turned out, an agreement was never reached and Epic Records shelved the project.

RIPERTON MOVES TO CAPITOL RECORDS

In 1978, Riperton's attorney Mike Rosenfeld and her husband Richard Rudolph orchestrated a strategic move to Capitol Records. In April 1979, Riperton released her final album, *Minnie*, on Capitol. During the recording of this album, her cancer had progressed to the point where she was in a great deal of pain. A hit single from that album, 'Memory Lane', incorporated the sadness and cries of (lyrics) 'I don't want to go', 'save me', 'now I'm slippin' fast', 'thought it was over; here I go again', and 'travelin' down, faster than the speed of sound'. It has been said that 'Memory Lane' was her farewell to her family and to the world.

Riperton's very last televised performance was on the Merv Griffin Show that aired on July 6, 1979, where she performed 'Memory Lane' and 'Lover and Friend'. Just six days later, on July 12, Riperton sadly passed away.

STRIKING A DEAL

Capitol Records, along with Richard Rudolph, Riperton's attorney Mike Rosenfeld and her manager, Ken Fritz Management, were now interested in resecuring the rights to the last album she recorded on Epic – the album that was never released.

After a few months of negotiation, a deal was finally struck between Capitol and Epic, with the proviso that upon signing over the master 2-inch analogue tape, Capitol would only be allowed to utilise the vocals of the late Minnie Riperton from that production; the backing tracks from that recording would have to be deleted (erased, and unable to be used contractually).

This deal, although seeming impractical and difficult for production, allowed a fresh commercial opportunity for Riperton's artistry and estate. 'Here We Go', as well as the other

selections from that Epic recording, would finally have an opportunity to be heard – an opportunity previously lost.

CREATIVE CHALLENGE

Richard Rudolph was faced with a creative task that had rarely, if ever before this time, been attempted. Keeping Riperton's vocals intact and preserved was the first challenge, and the technical hurdles included creating new musical arrangements to be written around her existing voice tracks, and a total re-recording with a new rhythm section and orchestra that needed to be sculpted to fit around the existing voice tracks; without any infringement of the original musical arrangements and production (copyright) that was owned by Epic Records. This was no small challenge.

Richard hired the orchestrator and co-producer, Johnny Pate. He was to create the new musical arrangements to fit Riperton's vocal structures and new orchestrations, as well as perform the conducting duties for the re-recording. Back then these creative tasks took many months to implement. Nowadays, a similar process is a comparative breeze, so to speak, given the digital recording techniques and editing environments available in our recent times. Today we can record and move parts around on a computer screen in the digital environment, edit phrases and sections, track lay audio in an instant, even re-tune vocal and instrumental parts to create total perfection and accuracy. But in those days, moving a phrase around from one spot to another on the 2-inch analogue tape was an extremely difficult task; certainly there was no opportunity to auto-tune vocals and to repair musical imperfections as today.

DUETS

During this production process, Rudolph introduced another wonderful idea – creating duet situations with Riperton's voice, using artists such Michael Jackson, George Benson, Stevie Wonder, Roberta Flack, Peabo Bryson and Patrice Rushen. This provided a final tribute to Riperton's artistry, a singer who was widely and greatly respected by her peers. It also provided a strong vehicle for greater commercial success for her final release by expanding her markets.

LOVE LIVES FOREVER

This album was called *Love Lives Forever*. It was co-produced by Richard Rudolph and Johnny Pate in 1980. Riperton's vocals had been produced by Leonard Caston and recorded in 1978 for Epic, but all other musical and vocal parts were recorded in April and May 1980 at Hollywood Sound Studios for Capitol Records. *Love Lives Forever* includes the

following tracks (songwriting credits noted), with duet vocals performed by a variety of artists:

- 'Here We Go' (M Riperton, R Rudolph, A Phillips) – duet with Roberta Flack and Peabo Bryson
- 'I'm In Love' (M Riperton, R Rudolph) – duet with Michael Jackson
- 'Strange Affair' (M Riperton, R Rudolph, M Henderson) – with Michael Boddicker, featured synth
- 'Island In The Sun' (M Riperton, R Rudolph) – with Tom Scott, featured tenor sax
- 'Give Me Time' (L Caston, L Hurtado) – duet with Stevie Wonder, and with featured harmonica solo
- 'You Take My Breath Away' (M Riperton, R Rudolph, R Waldman) – duet with George Benson
- 'The Song Of Life (LA-LA-LA)' (M Riperton, R Rudolph, L Caston, J Weider) – duet with Patrice Rushen

In 1980, 'Here We Go' became the first single from the album, and entered the R&B Billboard charts in the Top 10. It reached # 7 and remained strong for six weeks.

'HERE WE GO'

Since its release, the commercial success of 'Here We Go' has been significant: the song has been re-released on many compilation albums, covered by numerous other artists, and sampled versions of the copyright appear in many hip-hop and rap song titles. (The concept of 'sampling' will be explained in the next section, 'Competitive Environment'.)

A few audio examples of its significance and diversified use are listed below and contained on the website <http://www.artphillips.com/casestudy.html> for study reference.

- Minnie Riperton, original recording of 'Here We Go'
Epic Records (never released)

- Minnie Riperton, 'Here We Go, from the first released album titled *Love Lives Forever* / Capitol Records, 1980 (Billboard Charts – Top 10 R&B single)
- Cover: 'Here We Go' On Kenny Lattimore & Chante Moore's album titled *Things That Lovers Do* (#3 position on the Billboard charts Top 100 R&B / Hip Hop charts; March 1, 2003)
- Re-sample of 'Here We Go'
New song: 'Committed'
Artist: Ambivalence
Album title: *Electric Treatment*
Sony Records, 2001
- Re-sample of 'Here We Go'
New song: 'Gimme Yours'
Artist: A~Z
Album title: *Doe Or Die*
EMI Records, 1996
- Re-sample of 'Here We Go'
New song: 'Lazy Afternoon'
Artist: The Roots
Album title: *Do you want more?*
Geffen Records, 1994
- Link to lyrics of 'Here We Go'
- <http://www.lyricsg.com/89803/lyrics/minnieriperton/herewego.html>

COMPETITIVE ENVIRONMENT

Any use of existing music and recorded product needs to be cleared with the copyright owners. If an artist wishes to record someone's song, a request needs to be made directly to the originating music publisher. If someone wishes to use an existing sound recording in another medium, such as in a film, a television series, the internet, or to synchronise the recording to some type of visual or other medium it needs to be cleared and licensed correctly. If a portion of an existing song copyright is used in a new song or sound recording then it is called 'sampling' and the right to sample is a legal and copyright arrangement between the parties.

SAMPLING

We have seen how the commercial success of 'Here We Go' has been significant, with the song re-released on many compilation albums and covered by numerous other artists, but 'sampled versions' of the copyright also appear in many hip-hop and rap song titles.

'Sampling' is where a new composition title is created and shared by the original writers of the existing copyright (existing copyrights are legally binding) along with the new writers of the additional material. Sections of the original song are utilised to form a part of a new copyright. For example, 'Lazy Afternoon' – **writers:**

RUDOLPH RICHARD J	BMI
COLLINS TARIK L	BMI
HUBBARD LEONARD N	BMI
THOMPSON AHMIR	BMI
PHILLIPS ARTHUR D (ART)	APRA

Publishers"	Current Affiliation
ART PHILLIPS MUSIC PUBLISHING (BMI)	BMI
UNIVERSAL MUSIC CAREERS	BMI
DICKIEBIRD MUSIC AND PUBLISHING CO	BMI
EMBASSY MUSIC CORPORATION	BMI
GRAND NEGAZ MUSIC	NA

This copyright utilises 33 per cent of the 'Here We Go' copyright, and upon agreement between the parties, a new registration was filed with specified ownership shares for the new title.

TECHNOLOGY

Since the release of Riperton's album *Love Lives Forever*, other innovative albums and technological advancements have been undertaken, not unlike 'Love Lives Forever', to produce successful projects. These include *Unforgettable* (Natalie Cole) and *Duets* (Frank Sinatra).

The re-recording process of Riperton was innovative for it's time with the use of additional artist(s) to vocalize in duet manner against an existing vocal track, being a track that could not be re-recorded, not unlike the below example of Nat King Cole. The process of it's re-recording of instrumental backings and musical production around an existing vocal was a necessity.

NATALIE COLE

UNFORGETTABLE ... WITH LOVE (1991)

This best-selling album of 1991 included Natalie Cole's absent father, Nat King Cole (who died in 1965), and his earlier vocal recording performance. It featured Cole's vocal arrangements of her father's greatest hits, with piano accompaniment by her uncle Ike Cole. Cole sang twenty-two songs from her father's collection, including 'The Very Thought Of You', 'Mona Lisa', 'Route 66' and, with a little help from technology, performed the title song 'Unforgettable' as a duet with her father, using her father's original recording.

As a single, 'Unforgettable' reached #14 on *Billboard Magazine's* Hot 100 chart and #10 on the R&B chart; the single went gold and the video single six times platinum. The album was also a great success, selling over 7 million copies in the United States alone. It also won Cole several Grammy Awards including Album of the Year, as well as Record of the Year and Best Traditional Pop Vocal Performance for the track 'Unforgettable'. The Record of the Year award was somewhat controversial, as some wondered how a song that was over forty years old could be nominated, let alone win that title.

The above example explores the recording of new backing material, re-orchestrations and a fresh musical production behind a previously recorded vocal from an artist long past, and then, just as in the Riperton example, made into a duet version with another legendary vocal artist, being his daughter. This increased the market audience and brought new life into previously existing product.

FRANK SINATRA

DUETS (1993)

This studio album was recorded and released in 1993, near the end of Sinatra's career. It was advertised as 'The Recording Event of the Decade', and consists of various artists performing duets with Sinatra via remote location recording techniques – the vocal artists performing these duets never worked face-to-face with Sinatra during the recording process.

The album (Capitol) was a commercial success, reaching #2 on the Billboard albums chart and #5 in the UK, and selling over 3 million copies in the US. However, it received mixed critical notices, with complaints stemming from renowned record producer Phil Ramone's style and technique in production, and mostly a lack in personal collaboration, as the guest vocalists recorded along to pre-recorded vocal parts over a telecommunications feed.

The above example explores the recording of fresh musical arrangements and production with legendary vocalist Frank Sinatra; with the intent to add flavour and new market appeal to captivate a larger audience by using other artists as outlined above in duet form.

VARIOUS ARTISTS

WE ARE THE WORLD (1985)

The song and charity single, 'We Are the World' was originally recorded in 1985 by the supergroup of vocalists, USA for Africa. It was written by Michael Jackson and Lionel Richie, co-produced by Quincy Jones and Michael Omartian for the album *We Are the World*, and used famous vocal artists on a single composition to secure strong record sales in various markets. With sales in excess of 20 million copies, it is one of the fewer than thirty all-time singles to have sold 10 million copies worldwide.

This example shows a parallel by using many famous recording artists performing together on a single product allowing for strong market affect, and longevity of product appeal.

The producers chose to have all these recording artists in the same room to record this production. Quincy Jones asked everyone as they entered the studio, 'please leave your egos here at the door and let's all do our creative jobs'....a job that created a magic in a recording that was legendary and beneficial to a great humanitarian charity cause, USA for Africa (United Support of Artists for Africa). The song was a number one in the UK and USA in April and May 1985.

The considerable profits from the enterprise went to the USA for Africa Foundation, which used them for the relief of famine and disease in Africa and specifically to 1984–1985 famine in Ethiopia.

MARKET / CUSTOMERS

The re-recording of the *Love Lives Forever* content, and the duets performed therein following Riperton's death, increased the artist's base market, and found fresh market sectors which were not in place prior to this release for the artist. Consumers and audiences who followed artists such as Jackson, Flack, Benson and the like, now also found Riperton in their music library.

In the years to follow, Riperton's selections from this album have been covered and sampled by numerous audiences from A~Z, to The Roots, Kenny Lattimore and Chante Moore to the fresh new artist Angie Stone, some 34 years thereafter.

SAMPLING

In the last section we discussed sampling, which, in musical terms, is the re-using of existing sound recordings or musical copyrights to create new works – we saw instances where Riperton's music was sampled in the earlier section titled: 'The Project'. Sampling does not necessarily mean the use of an existing recorded segment, i.e. a segment for example that it is typically recorded and stored for execution with a sampler - a piece of hardware or a computer program, or samples with tape loops or with vinyl records via a phonograph - but sampling can also be defined as the mere existence of another part of 'a song' that is utilized in a 'new copyright song title'. It can be a brand new recording of a hook phrase taken from an existing song (the sample), or even the use of a lyric from existing copyright (also, a sample).

Widespread use of sampling techniques began with the beginnings of hip-hop music in the early 70s in New York City.

EARLY CASES OF SAMPLING

The sampling of existing (copyrighted) recordings using manipulation with tape recorders goes back at least as far as 1961, when James Tenney created Collage #1 ('Blue Suede') from samples of Elvis Presley's recording of the song 'Blue Suede Shoes'. At the time, many artists such as Brion Gysin and W S Burroughs were experimenting with the new technology – i.e. tape-recording by manipulating existing works such as radio broadcasts. Brion Gysin's work tended to favour his permutation poems as the vehicle for cut-ups with spliced repetition of the same series of words rearranged in many conceivable patterns, frequently utilising snippets of speeches or news broadcasts. Burroughs preferred a much more frantic and disorganised sound that would later spawn similar disjointed collage material from modern groups such as Negativland. Burroughs would record, for example, a radio broadcast about military action, then dub parts of the broadcast likely at random and often stuttering and distorting the original work far beyond recognition.

Even before then, the 1956 novelty hit entitled *The Flying Saucer* used segments of the original recordings of eighteen different chart hits from 1955–56 to tell the story of a visit from a flying saucer. They did this by mixing the segments with spoken 'news' commentary in the style of the 'War of The Worlds' radio broadcast by Orson Welles. After the record was issued, an agreement with music publishing houses for them to take a share of royalties from the records sold was negotiated and finally reached. Although his partnership with Buchanan soon ended, Dickie Goodman continued to make similar records through the 1960s and '70s, one of his biggest hits being 'Mr Jaws' in 1975.

Simon and Garfunkel sampled themselves when they used a portion of their song 'The Sounds Of Silence' in 'Save the life of my child' from their 1967 *Bookends* album. The Beatles also used the technique on a number of popular recordings in the mid to late '60s, including 'Yellow Submarine', 'Revolution 9' and 'I Am the Walrus'.

Using sample references from the Riperton recording of 'Here We Go', we have the new song title 'Lazy Afternoon' (artist: The Roots) that utilizes a sample from the main lyric. 'It's a lazy afternoon' from the hook section of *Here We Go*, not Minnie's vocal, but a new vocal sung by the new artist and using just the actual lyric as a sample. *Lazy Afternoon* also incorporates the original musical introduction idea from Riperton's recording, in fact, a strong part of the song's copyright as it became a memorable hook and re-call for the listeners. This intro section, as well as the lyric usage, provides a unique and memorable riff to the new song title; and therefore would be copyright infringement if it was not cleared and secured legally.

'Gimmie Yours' (artist: A ~Z) uses the chord progression and the harp arpeggio from *Here We Go*, therefore a recognizable and integral part of the original copyright. There was not any actual use from the original sound recording, simply the use of a chord progression and instrumental hook that formed the major part of the new song title.

'Committed' (artist: Ambivalence) uses the intro chord progression from the original, and the intro again is the teaser to the new copyright as it was with 'Here We Go'. This important chord progression is the main hook to 'Committed', and is used throughout their entire rap verse sections. Again, there was not any actual use from the original sound recording, but simply the use of a chord progression and instrumental hooks that formed the major part of the new song title.

LEGAL ISSUES

Sampling has always been an area of contention from a legal perspective. Historically, we see early sampling artists using portions of other artists' recordings without their appropriate permission, but then, once rap and other music incorporating samples began to make significant money, the original artists began to take legal action, claiming copyright infringements. Some sampling artists fought back, claiming their samples were fair use (a legal doctrine in the USA that is not necessarily universal). International sampling is governed by agreements such as the Berne Convention for the Protection of Literary and Artistic Works, and the WIPO Copyright Performances and Phonograms Treaties Act.

FINANCIAL OVERVIEW

A recording contract (more commonly referred to as a record deal) is a legal agreement between a record label and a recording artist (or group), where the artist makes a record album (or series of record albums) for the label to promote and sell. Artists under contract will, as a rule, record for that label exclusively; guest appearances on other artists' albums will carry the notice 'By courtesy of [the name of the label]', and that label may receive a percentage of sales.

COPYRIGHTS, ROYALTIES AND PAYMENTS

COPYRIGHTS

Labels typically own the copyright in the records their artists make, and also the master copies of those records. An exception is when a label makes a distribution deal with an artist; in this case, the artist, their manager, or another party may own the copyright (and masters), while the record is licensed exclusively to the label for a set period of time.

ROYALTIES AND PAYMENTS (all USD dollar examples, unless noted otherwise)

While initial recording deals usually yield a smaller percentage of royalties to the artists, subsequent (or renegotiated) deals can result in much greater profit, or profit potential. A few acts (for example Madonna and U2) have signed multimillion-dollar deals. Whitney Houston signed a \$100m dollar deal with BMG to deliver just six albums. Robbie Williams signed an

£80m (US\$125m) contract with EMI. For many other artists, though, for the millions to become tangible, hit albums meeting or exceeding their previous sales figures must follow. Recording contracts may include opt-out clauses for the label in the event that an act's popularity dips or the act releases non-hit albums under the deal; for example Mariah Carey's unprecedented \$100m five-album contract with Virgin Records was bought out by Virgin for \$28m, after her album sold poorly.

RECORD COMPANIES vs ARTISTS

Record companies invest huge sums of money to produce, release and promote an album. Recording time, manufacturing, packaging, photos, distribution, marketing and music videos are just some of the areas where the label must spend money on an act it has signed, and will have an impact on the record's success. The label usually absorbs these expenses, but in some artists' contracts, some of this money may be due back to the label, usually in the form of recoupable advances (below).

ADVANCES

Advances (up-front money paid directly to a recording artist) are almost always owed back to the label. Once the advance has been paid back from record sales, the artist then begins to see royalty payments for additional sales. Advancing money is a risk the label accepts as it does not know how well the act's album will sell. Capitol Records suspended Linda Ronstadt's contract in the early 1970s, as Capitol had spent more money on Ronstadt than it had yielded. She continued to tour partly to pay Capitol back for her 1960s deal, and then in the mid-1970s a string of hits allowed her to finally clear the debt. This was fairly typical.

CONTRACTS

Record companies expect to make a profit, and few concern themselves with a given performer's lack of business or financial savvy, as artists such as George Michael have discovered. 'Walking out' on a deal is very difficult (nearly impossible), and attempted to strike a new deal without completing an old one. Donna Summer signed a new deal with Geffen Records in 1980 and then released an album on Geffen. She was then told by her previous label, Casablanca Records, that she owed them another album, as was stated in her agreement. She recorded and delivered an album to Casablanca that the label released, and it became a major hit. Summer then went back to recording for Geffen Records for her next project. The Mamas & the Papas were forced into a reunion, years after their 1968 break-up, by the letter of their Dunhill Records contract, which required one more album to be completed. This album was 1971's *People Like Us*.

Record companies will generally increase royalty rates or allow artistic freedom in order to get acts to re-sign contracts with them. Established acts may otherwise go where they see better opportunity. During 1980, Diana Ross released her album *Diana*, which fulfilled her agreement with Motown. The album spawned three Billboard Hot 100 hits (a #1 and two top 10s). Ross, however, felt she was never fairly compensated by Motown for her work with The Supremes or her solo releases. When RCA Records offered her \$20m to sign with them, Ross gave Motown the chance to match the deal, or at least offer something comparable. Motown, believing Ross's solo career was much too unpredictable, and not seeing any reason to compensate her for her earlier Supremes work, offered \$ 3 million. Undecided about whether to remain with the label that made her famous, or sign a deal with a company that was willing to pay her what she felt she was worth, she ultimately signed with RCA.

STATISTICS – THE RECORDING INDUSTRY

IFPI publishes *Recording Industry in Numbers 2010*

John Kennedy / 2010 London, 28th April 2010 (quoted)

IFPI today publishes the *Recording Industry in Numbers 2010* (RIN), providing a comprehensive picture of key trends of today's music business. Highlights include:

- Global recorded music revenues declined 7% in 2009
- Some key markets saw a return to growth
- Digital sales grew strongly in many markets
- Piracy continued to erode legitimate music sales worldwide

Commenting on the new edition of the RIN, IFPI chairman and CEO John Kennedy says:

"The global music business is continuing to fight its corner, investing in talent and developing new business models despite the problems of a market rigged by piracy. Music companies are investing over US\$5 billion a year in developing and marketing artists, licensing hundreds of services and adapting their distribution channels to meet changing consumer demand.

(John Kennedy /2010)

- Global digital music trade revenues reach US\$4.2 billion, up 12% in 2009
- 400 services licensed worldwide by music companies with ISPs, mobile and other partners
- New figures show local music collapsing in major markets as piracy bites into releases, sales and investment in France, Spain and Brazil

- IFPI Digital Music Report highlights urgent need for legislation to curb digital piracy on ISP networks

More than a quarter of all recorded music industry revenues worldwide are now coming from digital channels, as music companies license music in partnership with ISPs and mobile operators, subscription services, streaming sites and hundreds of download stores.

However, despite the continuing growth of the digital music business - with trade revenues up 12% to an estimated US\$4.2 billion in 2009 - illegal file-sharing and other forms of online piracy are eroding investment and sales of local music in major markets.

"Climate change" for creative industries

The Report also shows how digital piracy is causing "climate change" across the creative industries. In 2009 the issue rose to the top of the agenda for film and TV producers as well as book publishers. TV program piracy is estimated to be growing faster than in music, according to research firm Big Champagne. Meanwhile, the film industry estimates illegal film streams and downloads account for 40% of its piracy problem by volume (MPAA). (John Kennedy /2010)"

(Bella Arnott-Hoare / 2011) Independent artists have been reaching levels of unprecedented success, due in part the growing phenomenon of the independent record label.

The differences between independent and major record labels have become somewhat murky, particularly as the worldwide success of some independents could liken them to their conglomerate foes.

The main difference is ideological: independent record labels often set their own agendas, and don't have to conform to more commercial ideas of success. They are more experimental in their approach, and willing to take risks.

<http://www.artshub.com.au/au/news-article/opinions/arts/independent-versus-major-record-labels-183424>

THE BIG FOUR back in 2005

According to a 2005 report by Nielsen SoundScan, the major corporate recording labels (the 'Big Four') accounted for 81.87% of the US music market in 2005, and aligned very much the same globally.

Universal Music Group (USA based) – 31.71%

Sony Music Entertainment (USA based) – 25.61%

Warner Music Group (USA based) – 15%
EMI Group (UK based) – 9.55%
Independent labels – 18.13%

In 2004, it was 82.64%:

Universal Music Group – 29.59%
Sony Music Entertainment – 28.46% (13.26% Sony, 15.20% BMG)
Warner Music Group – 14.68%
EMI Group – 9.91%
Independent labels – 17.36%

WORLD MUSIC MARKET SALES SHARES

According to the IFPI (International Federation of the Phonographic Industry), the global music market was estimated at \$30–40 billion in 2004. The total annual unit sales (CDs, music videos, MP3s) in that year were 3 billion.

An IFPI report published in August 2005 stated that the 'Big Four' accounted for 71.7% of retail music sales:

Universal Music Group – 25.5%
Sony Music Entertainment – 21.5%
Warner Music Group – 11.3%
EMI Group – 13.4%
Independent labels – 28.3%

Note that the IFPI and Nielsen Soundscan use different methodologies, which makes their figures difficult to compare casually, and impossible to compare scientifically.

THE BIG SIX

Prior to December 1998, the industry had two other major players – BMG, which was to merge with Sony Music, and Polygram, which was later absorbed into Universal Music Group.

Back then they were the 'Big Six':

Universal Music Group – 28.8%
Sony Music Entertainment – 21.1%
Warner Music Group – 13.4%
EMI Group – 14.1%
Independent labels – 22.6%

THE WHERE AND HOW OF INCOME FLOW

Recording-artist mechanical royalties

'Recording-artist royalties (and contracts) are extremely complex and a hotbed of debate in the music world. From the outside, the calculation appears fairly simple. Artists are paid royalties usually somewhere between 8% and 25% of the suggested retail price of the recording. Exactly where it falls depends on the clout of the artist (a brand new artist might receive less than a well-known artist). From this percentage, a 25% deduction for packaging is taken out (even though packaging rarely costs 25% of the total price of the CD)'. (Lee Ann Obringer 2011)

Advances and recoupment

Typically, when recording artists sign a recording contract or record a song (or album), the record company pays them an advance that must be paid back out of their royalties. This is called recoupment. In addition to paying back their advance, however, recording artists are usually required under their contract to pay for many other expenses. These recoupable expenses usually include recording costs, promotional and marketing costs, tour costs and music video production costs, as well as other expenses. The record company is making the upfront investment and taking the risk, but the artist eventually ends up paying for most of the costs. While all of this can be negotiated up front, it tends to be the norm that the artists pay for the bulk of expenses out of their royalties. (Lee Ann Obringer 2011)

Writer/publisher mechanical royalties

First, there is the calculation of mechanical royalties for writers and publishers. These royalties are paid by the record company to the publisher. The publisher then pays the writer a share of the royalty (typically split 50/50).

In the United States, the royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the consumer price index. In 2009, the statutory rate was \$.08 for songs five minutes or less in length or \$.0155 per minute for songs that are over five minutes long. So, for example, a

song that is eight minutes long would earn \$.124 for each recording sold. (Lee Ann Obringer 2011)

Internet royalties With the explosion of the Internet and the ease of downloading music onto your computer, a whole new royalty arena has opened up in recent years. Record companies usually treat downloads as "new media/technology," which means they can reduce the royalty by 20% to 50%. This means that rather than paying artists a 10% royalty on recording sales, they can pay them a 5% to 8% rate when their song is downloaded from the Internet. In the case of downloaded music, although there is no packaging expense, many record company contracts still state that the 25% packaging fee will be deducted. (Lee Ann Obringer 2011)

(Michael DeGusta / 2011) Bain & Company produced the following as part of their report on "Publishing in the Digital Age (Era)":

The Bain and Company chart provides an interesting insight into consumers purchasing CD's and digital music content. 10 years ago the average American spent almost 3 times as much on recorded music products as they do today, 26 years ago they spent almost twice as much as they do today.

Downloaded albums & singles have grown nicely, but we've already established that is not nearly enough to offset the loss of the physical equivalents.

Mobile, which includes "Master Ringtones, Ringbacks, Music Videos, Full Length Downloads, and Other Mobile", hit its peak in 2007 and has actually been in decline the past 2 years.

Subscriptions – presumably Rhapsody, Zune Pass, and the like — have also drifted downward the past 2 years.

Michael DeGusta says, ' it looks like the smaller and shrinking recorded music industry is here to stay'.

<http://www.businessinsider.com/these-charts-explain-the-real-death-of-the-music-industry-2011-2#ixzz1P4Ediztl>

http://www.bain.com/bainweb/PDFs/cms/Public/BB_Publishing_in_the_digital_era.pdf

CONCLUSION

Looking back at Minnie Riperton's *Love Lives Forever* – specifically the re-recording of that album's content – it is clear that much was required to make it happen. Securing the rights from the previous owner of the original sound recording, Epic, required entrepreneurial business management skills and a strong understanding of copyright law. Creative thinking and innovative technical skill were also required in order to produce a commercial result from a pre-existing vocal performance. The creative process that took place to secure the ever-so-important duet versions with Riperton's voice was a success, and it provided a broader and stronger market for the product. It also increased audience appeal.

The results from the re-release also provided additional copyright and intellectual property rights in all the songs associated with the recording. This included the ongoing success of the composition 'Here We Go', the creation of cover versions and various 'sample' copyright rights meant the song's life was again extended.

We spoke at the beginning of this case study about the 'long-tail' effect. The re-recording process of Riperton's album *Love Lives Forever*, its outcome and subsequent success offers an example of that effect, one that continues some thirty four years later. Casting an eye over Riperton's discography, below, offers some idea of her output both during and since her relatively short career.

DISCOGRAPHY

Riperton was first signed to GRT Records (1969–70); then Epic Records (1974–77); and finally Capitol Records (1979–80). Her discography includes artist releases, special compilations, singles, covers and samples.

STUDIO ALBUMS

1970: *Come to My Garden* (GRT)

1974: *Perfect Angel* (EPIC)

1975: *Adventures in Paradise* (EPIC)

1977: *Stay in Love* (EPIC)

1979: *Minnie* (Capitol)

1980: *Love Lives Forever* (Capitol)

COMPILATIONS:

1981: *The Best of Minnie Riperton* (Capitol)

1993: *Capitol Gold: The Best of Minnie Riperton* (Capitol)

1998: *Her Chess Years* (Universal)

Artist	Riperton, Minnie +
Catalog Number	MCD 09392 +
Label	Universal +
Page Title	Her Chess Years +
Page Type	Discography Page +
RID	2,451,631 +
Release Category	Compilation +
Release Type	Main +
Release Year	1,998 +
Released in (Country)	Europe +
Type	CD +

2001: *Petals: The Minnie Riperton Collection* (Capitol)

2001: *Les Fleurs: The Minnie Riperton Anthology* (Stateside Records)

SINGLES

1974: 'Reasons'

1974: 'Seeing You This Way'

1975: 'Lovin' You'

1975: 'Inside My Love'

1975: 'When It Comes Down to It'

1976: 'Simple Things'

1976: 'Adventures in Paradise'

1977: 'Stick Together' (Parts One and Two)

1977: 'Wouldn't Matter Where You Are'

1977: 'Can You Feel What I'm Saying'

1977: 'Young, Willing and Able'

1979: 'Memory Lane'

1979: 'Lover and Friend'

1980: 'Here We Go'

1981: 'Give Me Time'

'Here We Go' has since been included on other Minnie Riperton compilations, including:

1981: *The Best of Minnie Riperton* (Capitol)

1993: *Capitol Gold: The Best of Minnie Riperton* (Capitol)

2001: *Petals: The Minnie Riperton Collection* (Capitol)

2001: *Les Fleurs: The Minnie Riperton Anthology* (Stateside Records)

2001: *Back 2 Back* – Natalie Cole & Minnie Riperton (EMI)

It was also included on numerous cover recordings, as well as the 'sampling' of the original copyright over the years.

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