Timbaland plagiarism controversy

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Timbaland's plagiarism controversy occurred in January 2007, when several news sources reported that Timbaland (Timothy Z. Mosley) was alleged to have plagiarized several elements (both motifs and samples) in the song "Do It" on the 2006 album Loose by Nelly Furtado without giving credit or compensation. The song itself was released as the fifth North American single from Loose on July 24, 2007.

Background

The original track, entitled "Acidjazzed Evening", is a chiptune-style 4-channel Amiga module composed by Finnish demoscener Janne Suni (a.k.a. Tempest). The song won first place in the Oldskool Music competition at Assembly 2000, a demoparty held in Helsinki, Finland in 2000. According to Scene.org, the song was uploaded to their servers the same year, long before the release of the song by Furtado. The song was later remixed (with Suni's permission) by Norwegian Glenn Rune Gallefoss (a.k.a. GRG) for the Commodore 64 in SID format - this is the version which was later allegedly sampled for "Do It". It was added to the High Voltage SID Collection on December 21, 2002.

A video which claims to show proof of the theft was posted to YouTube on January 12, 2007. Another video was posted to YouTube on January 14, 2007, claiming Timbaland also stole the tune a year earlier for the ringtone Block Party, one of several that were sold in the United States in 2005.

Authors' comments

Janne Suni

Janne Suni posted the following comment regarding the copyright status of "Acidjazzed Evening" on January 15, 2007:

"...I have never given up the copyrights of Acidjazzed Evening. I also have never authorized commercial use of the song. In 2002, however, Glenn Rune Gallefoss (also known as GRG) made a conversion/arrangement of the Acidjazzed Evening which was not released commercially. This arrangement was made on the Commodore 64 computer. It was authorized by me, and Glenn Rune Gallefoss explicitly asked for permission before releasing the arrangement."

On February 16, 2007, he added the following note:

"I'll correct one persistent misconception: I have been using the services of a law firm since September 2006. Things are gradually developing behind the scenes, and whatever the result turns out to be like, I'll publish any available info here as soon as possible."
On September 9, 2007, his webpage was updated with the following information:

"My case regarding the controversy has come to its closure. Just as before, I will not answer any questions about the case."[4]

Glenn Gallefoss

The C64 news portal C64.sk published the following comment from Glenn R. Gallefoss on January 15, 2007:

"... Its my sid version that has been sampled in do-it : You can hear that by the 11 waveform bleeps I have put in at random places (only 3 voices on a sid you know), the arpeggios are using filters, I can even hear the lead using my multipulse routine (which i rarely use, but i did it on acidjazz.sid )."[9]

On February 3, Gallefoss published the following comment on his personal web page:

"Not much to tell about this matter. I have made a deal with my lawyers. Sometime in the near future, something will happen."[10]

Universal / Nelly Furtado

Hannu Sormunen, a Finnish representative of Universal, which represents Nelly Furtado in Finland, commented the controversy as follows in the January 15, 2007 issue of Iltalehti:

In case that the artist decides to pursue the matter further, it's on him to go to America and confront them with the local use of law. It will require a considerable amount of faith and, of course, money.[1]

The first legal action against Universal Finland was officially filed with Helsinki District Court in mid-August 2007, on behalf of Glenn R. Gallefoss.

Timbaland

On February 2, 2007, Timbaland responded to the plagiarism accusations in an interview by the radio show Elliot in the Morning. In this interview, Timbaland admits to what he calls "sampling", but he also claims that sampling is "not stealing", because "everybody samples from everybody every day". Timbaland also says that the sample is "from a video game" and mentions the Commodore 64. He also says that he has no time for research and that it is sometimes impossible to "know what's public domain and what's not". Timbaland also calls the issue "ridiculous" but mentions that he is "in legal discussions" and therefore can't say much about it. He did, however, call Janne Suni an "idiot" and a "freakin' jerk" on the show. He consistently talked about the incident as sampling, failing to address the claims with regards to the melody.[11]

On February 9, 2007, Timbaland commented on the issue as follows in an MTV interview:

"It makes me laugh. The part I don't understand, the dude is trying to act like I went to his house and took it from his computer. I don't know him from a can of paint. I'm 15 years deep.
That's how you attack a king? You attack moi? Come on, man. You got to come correct. You the laughing stock. People are like, 'You can't be serious.'”

Third-party analysis

A device in Timbaland's studio, as seen in video clips from the MTV show "Timbaland's Diary", has been identified as an Elektron SidStation. This device is a MIDI-controlled synthesizer based on the SID chip of the Commodore 64, and it is capable of playing back .sid files the way they would have sounded on the original hardware. It has been speculated that Timbaland downloaded Gallefoss' version of the song from the High Voltage SID Collection and used the SidStation for running it to the studio system.

Chris Abbott, maintainer of the website C64Audio.com, posted an in-depth analysis on the topic and summarizes it in his on-line article. Abbott has commercially released Commodore 64 music, most notably the "Back in Time" CD series. Abbott writes regarding the alleged plagiarism:

"What appears to have happened is that the three-voice output from the original C64 version has had the bass voice silenced: that missing bass voice then follows the original tune except for a couple of changed notes, and the removal of some octave jumps. However, various technical procedures show that other components of the song (chords/melody/rhythm) have been exactly reproduced. This is vanishingly unlikely to have happened by chance."

Abbott also notes that although the evidence seems to be conclusive, the eventual outcome is not. The record company has a multitude of possible reactions to the controversy as well as many possible reasons why the sample was not cleared on the first place.

Court proceedings

In August 2007, an action for infringement was filed in the District Court of Helsinki against Universal Music, Ltd alleging Nelly Furtado's song "Do It" infringed "Acid Jazz Evening". In January 2009, after a trial that included multiple expert and technical witnesses, a three judge panel unanimously dismissed the plaintiff's case. Writing for the court, Judge Lemstrom writes, "The plaintiff has lost his case in its entirety."

On December 17, 2008, Abbott also testified as a witness of prosecution in the Helsinki court in Gallefoss' case against Universal Music Finland. The Finnish court reportedly threw out the case after ruling in only one aspects of the three claims (sampling, performance rights, producer rights), and the case is currently remains, as of 2010 January, in appellate court.

On June 12, 2009, Mikko Välimäki, who is one of the legal counsels of Kernel Records, the owner of the sound recording rights, reported that the case had been filed in Florida.

Similar cases

Earlier examples of unauthorized commercial use of SID music have been brought up by sources covering the Timbaland plagiarism controversy.
An often-mentioned example is Zombie Nation’s 1999 hit Kernkraft 400, which was a remake of David Whittaker’s song for the 1984 Commodore 64 game Lazy Jones. Legal action is pending.[17] Another example is the Dutch hit You’ve Got My Love, for which the artist Bas “Bastian” Bron sampled the drums from Jeroen Tel’s and Reyn Ouwehand’s song made for the Rubicon game. Both of the cases were won by the original authors in court.[2][13]

The Fitts for Fight case also involved copied chipmusic.

In April 2008, a similar case was revealed about self-proclaimed "chiptune maestro" Laromlab, who released his self-titled album on Mushpot Records, but shortly after was discovered that the entire album is in fact the work of a chiptune collective called the YM Rockerz. Mushpot responded by dropping Laromlab immediately from the label,[18] and Laromlab himself has issued an apology, stating the "project was a hoax, a complete fallacy".[19]

**Media coverage**

**The beginnings of the controversy**

The earliest internet forum posts suggesting that "Do It" was based on "Acidjazzed Evening" date back to July 2006,[20] and according to the Finnish news portal eDome, "Suni and other demoscene hobbyists" already knew about it at this time.[2]

**Mainstream coverage**

One of the first large media to react to the on-line controversy was the Finnish Broadcasting Company, which published a news item on the topic in January 14, 2007.[21]


On January 16th, Finnish news portal eDome published an article about the case saying in the English summary that:

"It is beyond any doubt that Timothy 'Timbaland' Mosley has directly copied large sections of Janne Suni’s songs, much more than any 'fair use' would allow. Timbaland has not sampled tiny bits or effects from the song, but whole sections. This is a clear breach of copyright."[2]

The article also covered similar cases from the past and notified that both the competition and the prize ceremony "were witnessed by the 4000-5000 people at the event. The competition and the ceremony were also shown in Helsinki area cable TV."[2] The same day, the news reached Norwegian media, including Norwegian Broadcasting Corporation[27] and Dagbladet,[28] both of which interviewed Gallefoss.

On January 17, the case was reported on briefly by the Rolling Stone website,[29] XXL Magazine,[30] and the popular German IT news portal Heise online. Heise’s story suggests that Timbaland downloaded Gallefoss’s SID arrangement from the High Voltage SID Collection.[14]
On January 18, Rolling Stone put the controversy as top news of the day with a more detailed article.[3] Later that day the San Jose Mercury News covered the story in their blog.[31]

On January 22, MTV took notice of the issue with a longer article and according video-news. It is not clear if this video news was actually broadcast or merely posted online.[32] MTV owned sister station VH-1 also published the MTV news story. MTV had apparently tried to reach Timbaland’s representatives via phone and e-mail, but they "had not responded at press time".[32]

References

1. ^ a b Onko Nellyn hitti Suomesta? (Finnish)  
2. ^ a b c d e f Yhdysvaltalaisuotajat pölli suomalaismuusikolta (Finnish)  
3. ^ a b "Is Timbaland a Thief?".  
5. ^ High Voltage SID Collection Update #34
6. ^ YouTube Producer Timbaland steals song from Finnish musician
7. ^ YouTube Timbaland steals song - more proof!
16. ^ NME: OK COMPUTER!
20. Vee.fi user reviews of Nelly Furtado: Loose. [dead link]

External links

- Acidjazzed Evening (MOD format, ZIP-compressed)
- Acid Jazz (C64 remix) (SID format)
- Collection of different sources about the issue
Controverse autour de Timbaland

Un article de Wikipédia, l'encyclopédie libre.

En janvier 2007, plusieurs sources d'information ont rapporté que Timbaland (Timothy Z. Mosley) était accusé d'avoir plagié plusieurs éléments (échantillonnage) dans la chanson "Do It" sur l'album de 2006 Loose par Nelly Furtado sans porter crédit ou donner compensation au véritable auteur. Le titre lui même était disponible comme cinquième single de Loose le 24 juillet 2007.

Petite histoire

Le titre original intitulé "Acidjazzed Evening", est un chiptune-style 4-channels Amiga module composé par Janne Suni (a.k.a. Tempest), un musicien finlandais de la scène démo[1]. Ce titre gagna la première place à l'Oldskool Music competition à l'Assembly 2000, une des demoparties tenue à Helsinki en Finlande en 2000. [2] Selon Scene.org, le titre fut "uploadé" vers leur serveur la même année, bien avant la chanson de Nelly Furtado. Le titre d'origine fut remixé plus tard avec la permission de Suni par le norvégien Glenn Rune Gallefoss (a.k.a. GRG) au format SID sur Commodore 64; c'est cette version qui fut semble-t-il échantillonnée pour "Do It". Le morceau C64 fut ajouté à High Voltage SID Collection le 21 décembre 2002[3].

Une vidéo qui tente de montrer la preuve du vol fut postée sur YouTube le 12 janvier 2007[4]. Une autre vidéo fut postée sur le site le 14 janvier 2007, prétendant que Timbaland avait aussi volé un an plus tôt le même titre pour un ringtone Block Party, un parmi tant qui furent vendus aux États-Unis en 2005[5].

Le 1er avril, la piste pour "Do It" (sans voix) fut utilisée comme thème musical pour les Juno Awards 2007, diffusé à la télévision, que Nelly Furtado présentait. La piste fut jouée durant l'ouverture avant les pubs. Les échantillons controversés purent donc être clairement audibles.

Commentaires de l'auteur

Janne Suni

Janne Suni posta le commentaire suivant concernant le statut d'"Acidjazzed Evening" le 15 janvier 2007 :

"...I have never given up the copyrights of Acidjazzed Evening. I also have never authorized commercial use of the song. In 2002, however, Glenn Rune Gallefoss (also known as GRG) made a conversion/arrangement of the Acidjazzed Evening which was not released commercially. This arrangement was made on the Commodore 64 computer. It was authorized by me, and Glenn Rune Gallefoss explicitly asked for permission before releasing the arrangement."[1]
Traduction : "... Je n'ai jamais renoncé aux droits sur Acidjazzed Evening. Je n'ai pas non plus autorisé un usage commercial de la chanson. En 2002 cependant Glenn Rune Gallefoss (connu aussi sous le pseudonyme GRG) a fait une conversion/un arrangement de Acidjazzed Evening qui n'est pas sorti dans les bacs. Cet arrangement a été fait sur Commodore 64. Je l'ai autorisé et Glenn Rune Gallefoss avait demandé la permission avant de sortir son remix."

Le 16 février 2007, il ajouta:

"I'll correct one persistent misconception: I have been using the services of a law firm since September 2006. Things are gradually developing behind the scenes, and whatever the result turns out to be like, I'll publish any available info here as soon as possible."[1]

Le 9 septembre 2007, sa page web fut mise à jour avec les informations suivantes :

"My case regarding the controversy has come to its closure. Just as before, I will not answer any questions about the case. "[1]

Glenn Gallefoss

The C64 news portal C64.sk publia les commentaires suivants de Glenn R. Gallefoss le 15 janvier 2007 :

"... Its my sid version that has been sampled in do-it : You can hear that by the 11 waveform bleeps I have put in at random plaves (only 3 voices on a sid you know), the arpeggios are using filters, I can even hear the lead using my multipulse routine (which i rarely use, but i did it on acidjazz.sid )."[6]

Cela implique que la conversion C64 et par conséquent, le supposé échantillon dans "Block Party" et "Do It", furent créés en utilisant le programme c64 de Gallefoss[7]. Il y a aussi une vidéo YouTube avec le titre joué par ce programme[8].

Le 3 février, Gallefoss publia le commentaire suivant sur sa page perso :

"Not much to tell about this matter. I have made a deal with my lawyers. Sometime in the near future, something will happen."[9]

Universal / Nelly Furtado

Hannu Sormunen, un représentant finlandais d'Universal, qui représente Nelly Furtado en Finlande, commenta la controverse comme suit le 15 janvier 2007 dans Iltalehti :

In case that the artist decides to pursue the matter further, it's on him to go to America and confront them with the local use of law. It will require a considerable amount of faith and, of course, money. [10]

La première action légale contre Universal Finlande fut lancée par Helsinki District Court en, mi-aout 2007, au profit de Glenn R. Gallefoss.
Timbaland

Le 2 février 2007, Timbaland répondit aux accusations de plagiat dans une interview à la radio Elliot in the Morning. Dans cette interview, Timbaland admet ce qu'il nomme "échantillonnage", mais il prétend que ce n'est pas du vol, parce que tout le monde le fait à tout le monde tous les jours. Timbaland dit aussi que c'est d'un jeu vidéo et mentionne le Commodore 64. Il dit aussi qu'il n'a pas le temps pour des recherches sur ce qui est domaine public ou pas. Timbaland trouve cela ridicule mais ne peut en dire plus à cause du procès en cours. Il a cependant appelé Janne Suni un "idiot" et "secoué à lubies". Il persiste à appeler ça un échantillonnage sans se référer à la mélodie.[11]

Le 9 février 2007, Timbaland commenta la cas comme suit sur MTV :

"It makes me laugh. The part I don't understand, the dude is trying to act like I went to his house and took it from his computer. I don't know him from a can of paint. I'm 15 years deep. That's how you attack a king? You attack moi? Come on, man. You got to come correct. You the laughing stock. People are like, 'You can't be serious.'"[12]

Analyse d'une partie tierce

Un appareil dans le studio de Timbaland, comme vu dans les video clips de la MTV "Timbaland's Diary", a été identifié comme un Elektron SidStation[13][14]. Cet appareil est un synthétiseur à contrôle midi basé sur le circuit SID du Commodore 64, et il est capable de rejouer des fichiers .sid à la façon du matériel d'origine. On a spéculé que Timbaland téléchargea la version de Gallefoss du titre venant de High Voltage SID Collection et utilisa une SidStation pour l'utiliser dans son studio[13][14].

Chris Abbott, qui entretient le site C64Audio.com, posta une analyse en profondeur qu'il résuma dans un article. Abbott a commercialisé des titres Commodore 64 music, plus notablement la série "Back in Time" en CD. Abbott écrit au sujet du plagiat :

"What appears to have happened is that the three-voice output from the original C64 version has had the bass voice silenced : that missing bass voice then follows the original tune except for a couple of changed notes, and the removal of some octave jumps. However, various technical procedures show that other components of the song (chords/melody/rhythm) have been exactly reproduced. This is vanishingly unlikely to have happened by chance."[14]

Abbott note aussi que si la preuve semble concluante, l'éventuel résultat l'est moins. La société d'édition a une multitude de réponses possibles et plusieurs raison à invoquer pour ne pas avoir supprimé le titre de prime abord.

Une preuve plus artistique des similarités fut faite par un blogger qui mixa les deux titres sous le nom Do it in the Acid jazzed evening[15].

Cas similaires

Des exemples antérieurs d'usage commercial de titres "gratuits" ont été exhumés par des sources couvrant cette controverse.
Un exemple souvent mentionné est le hit *Kernkraft 400* (1999) du groupe *Zombie Nation*, dont le riff principal, qui constitue le cœur de la piste, est emprunté à une composition de *David Whittaker*, présente dans le jeu *Lazy Jones* (1984). David Whittaker fut indemnisé d'une somme non révélée[16]. Un autre exemple est le hit néerlandais *You've Got My Love*, pour lequel l'artiste Bas "Bastian" Bron échantillonna la batterie d'un titre de *Jeroen Tel* et *Reyn Ouwehand* composé pour le jeu *Rubicon*. À chaque fois, les cas furent gagnés par l'auteur original devant la cour de justice[13][14].

Un exemple d'usage non autorisé de musique tracker plus ancien existe aussi. En 2000, un artiste américain de faible envergure *Jay Newingham* s'avéra avoir directement copié plusieurs titres demoscene bien connu pour son electronica band *Planet-X* (ne pas confondre avec *Derek Sherinian: Planet X*), incluant des morceaux comme *Purple Motion* de la démo *Second Reality*. Ce cas ne fut pourtant jamais jugé[17].

Les *Fitts for Fight* ce cas révélait des chipmusic volés.

*Jamba* une musique vendue par *Bodenständig 2000* sans permission[18].

**Couverture media**

**Les débuts de la controverse**


**La couverture large**


Le 16 janvier, un portail de nouvelles finlandais eDome publia un article au sujet de ce cas disant dans le sommaire anglais:

"It is beyond any doubt that Timothy 'Timbaland' Mosley has directly copied large sections of Janne Suni’s songs, much more than any 'fair use' would allow. Timbaland has not sampled tiny bits or effects from the song, but whole sections. This is a clear breach of copyright."[13]

L'article couvrait aussi des cas similaires du passé et que la compétition et la remise de prix eurent lieu devant 4000-5000 personnes. La compétition et la cérémonie furent aussi vus sur la tv par câble à Helsinki. Le même jour, la nouvelle atteignit la Norvège Norwegian Broadcasting Corporation, les deux interrogèrent Gallefoss.
Le 17 janvier, le cas fut rapporté brièvement par le site Rolling Stone et le populaire portail allemand Heise online. Lequel suggère que Timbaland téléchargera l'arrangement de Gallefoss en SID depuis High Voltage SID Collection.

Le 18 janvier, Rolling Stone mit en exergue la controverse avec un article plus détaillé. Plus tard dans la journée San Jose Mercury News couvrit l'histoire dans leur blog. Le 22 janvier, MTV prit note de la nouvelle avec un article plus long et une vidéo. Il n'est pas certain si cette vidéo était sur internet ou à l'antenne. La sœur de Mtv VH-1 publia aussi les infos d'MTV. MTV avait apparemment essayé d'atteindre des représentants de Timbaland par téléphone et courriel, mais sans réponse à l'heure d'envoyer.

Critique

La controverse a été aussi critiquée. D'après XXL Magazine, il y a eu trop de couverture média de l'événement. XXL prétend que cette trop grande visibilité est due à la fierté collective de plusieurs geeks et leur guerre larvée avec les médias généraux. XXL prétend aussi que du plagiat à cette échelle arrive régulièrement et y va d'une comparaison avec l'échantillonnage trouvé dans « 90% du pre-1997 hip hop », de même que le vol de riff de blues et rock.

Toutes les productions musicales à base de samples passent par une phase de clearing, qui consiste à retrouver le morceau dont est extrait l'échantillon afin de s’acquitter des droits d’auteur. Timbaland aurait omis cette phase.

Références

1. ↑ Tempest's website [archive]
2. ↑ Scene.org's Assembly 2000 results data [archive]
3. ↑ High Voltage SID Collection Update #34 [archive]
4. ↑ YouTube Producer Timbaland steals song from finnish musician [archive]
5. ↑ YouTube Timbaland steals song - more proof! [archive]
6. ↑ C64 sk: GRG's cover of Tempest’s tune got ripped [archive]
7. ↑ SDI [archive]
8. ↑ YouTube - Acid Jazzed Evening C64 feat. 'Furtado & Timbaland.' [archive]
9. ↑ GRG's web site / news [archive]
10. ↑ Onko Nellyn hitti Suomesta? [archive] (Finnish)
11. ↑ Elliot in the Morning - Timbaland interviewed (MP3) [archive] (transcript [archive])
12. ↑ Timbaland Still In Shock Over Jay-Z, Madonna, Elton Collaborations [archive]
13. ↑ Yhdysvaltalaisuottaja pölli suomalaismuusikolta [archive] (Finnish)
15. ↑ J's Corner of Randomness: TimBUSTED! *Rickit! Rickit!* [archive]
16. ↑ NME: OK COMPUTER? [archive]
17. ↑ A scam artist called Jay [archive]
18. ↑ C64 Music: Chiptune Commercial Rip-Off's striking! [archive]
19. ↑ Vee.fi user reviews of Nelly Furtado: Loose [archive]
20. ↑ Pouet discussion thread [archive]
21. ↑ Something Awful Timbaland ripped off a track from my buddy. [archive]
22. ↑ Slashdot - Did Producer Timbaland Steal From the Demoscene? [archive]
23. ↑ Digg.com Timbaland ripped off a track from my buddy. [archive]
24. ↑ Did Björk producer Timbaland steal music from demoscene? More evidences showing up! [archive]
Liens externes

- Acidjazzed Evening (MOD format, ZIP-compressed) or as .mp3 format
- Acid Jazz (C64 remix) (SID format)
- Collection of different sources about the issue