



Does sampling infringe or not? Sampling is nowadays a most common technique used in the music industry.

In its decision of 29 July 2019 in the Pelham-case, the European Court of Justice confirms that sampling without authorization does infringe a phonogram producer's rights provided the sample is recognizable to the ear. The use of a sound sample taken from a phonogram in a modified form which is unrecognizable to the ear does not infringe those rights.

The Court however also states that an infringing sample could possibly fall under the exception of quotation provided the original work it comes from is still identifiable and the use of the sample is made for the purposes of illustrating an assertion, of defending an opinion or of allowing an intellectual comparison between that work and the assertions of the sampler.

For more details and a first analysis of the decision, click **here**.



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