The Licensing Journal, *Wu-Tang Forever: The Emerging Legal and Artistic Revolution of Music as a Trade Secret*, (Jan. 1, 2026)

The Licensing Journal

Click to open document in a browser

Wu-Tang Forever: The Emerging Legal and Artistic Revolution of Music as a Trade Secret

Taylor Weilnau and Aaron Gin

Taylor Weilnau is an associate at the intellectual property law firm MBHB who supports clients in all phases of patent prosecution, portfolio management, and intellectual property strategy and litigation. Weilnau leverages a strong background in molecular biology and biochemistry to guide clients on related IP matters. Additionally, Weilnau is professionally committed to advancing broader representation among innovators and creators in the U.S. intellectual property system, as well as diversity within the IP profession.

As a partner at intellectual property law firm MBHB, Dr. Aaron Gin leverages his expertise in electrical engineering and computer science to help clients secure IP rights for innovative technologies. He prepares and prosecutes U.S. and foreign patent and trademark applications and advises clients on patent validity, infringement, and patentability. Dr. Gin is a thought leader at the intersection of artificial intelligence and IP and has written on topics such as AI-as-inventor, emerging AI legislation, and the use of large language models and other AI-based tools in patent practice.

In 2014, the Wu-Tang Clan shocked the music world with the announcement that they had recorded their seventh studio album, *Once Upon a Time in Shaolin*. The twist? Only a single copy was created. Burned onto a single, two-disc set and encased in a hand carved silver jewel-encrusted box set designed by the artist Yahya, the album had been intentionally created to be a priceless piece of art. On their website at the time, Wu-Tang Clan explained their vision:

> "The music industry is in crisis. The intrinsic value of music has been reduced to zero. Contemporary art is worth millions by virtue of its exclusivity ... By adopting a 400 year old Renaissance-style approach to music. . . we hope to inspire and intensify urgent debates about the future of music."[1]

A decade later, the album continues to inspire and intensify the debate about the future of music, but now in the context of intellectual property law. In a recent opinion, U.S. District Judge Pamela K. Chen of the Southern District of New York ordered that the album could be considered a trade secret.[2] The ruling underscores the album's unique experiment in scarcity but also redefines the intersection of law and art in a digital age where music has become nearly impossible to contain.

But how did we get here? Rewind back to 2015, when Martin Shkreli purchased the only copy of the album for $2 million – at the time, the highest price ever paid for a single piece of recorded music. Ownership of the album, along with its unique box set, was subject to an Original Purchase Agreement ("OPA") for a period of 88 years. The OPA required that Shkreli could only duplicate the album "for private use," and that he was prohibited from replicating or exploiting it for "any commercial or other non-commercial purposes," except for limited public exhibition in non-traditional, particularized venues (e.g., museums, art galleries, "or other similar spaces not customarily used as venues for large musical concerts").[3] The OPA granted him the right to sell the album to a third party, but only under the same terms and conditions.

However, in 2017, Shkreli was convicted of securities fraud and forced to forfeit assets, including the album, to the U.S. government. In 2021, PleasrDAO purchased the album for approximately $4 million, subject to the same

OPA terms. PleasrDAO is a decentralized autonomous organization describing itself as a collective that acquires and shares culturally significant works, aiming to create interactive, participatory experiences across the globe. Since acquiring the album, the group claims to have gone to extraordinary lengths to safeguard its secrecy by employing armed guards, secure transport, and continuous surveillance.[4] Nevertheless, after his release from prison, Shkreli retained copies of the album and, as both the complaint alleges and his own social media posts confirm, he distributed them.[5] As a result, in June 2024, PleasrDAO filed a lawsuit against Shkreli in the Southern District of New York, alleging violations of the Defend Trade Secrets Act (DTSA) and misappropriation of trade secrets under New York law. Shkreli responded with a motion to dismiss, arguing that PleasrDAO had not sufficiently alleged that the album qualifies as a trade secret.

Under both the DTSA and New York law, a claim for trade secret misappropriation requires (1) possession of a trade secret and (2) use of that secret to breach an agreement, duty, or confidential relationship, or acquisition by improper means.[6] The DTSA defines a trade secret broadly to include financial, business, scientific, technical, or engineering information—such as formulas, methods, or processes—if (A) the owner took reasonable steps to maintain secrecy, and (B) the information has independent economic value from not being generally known or readily ascertainable.[7] New York courts consider six factors when determining whether information may be a trade secret under both the DTSA or state law, including (1) how widely the information is known outside the business, (2) its accessibility within the business, (3) measures taken to preserve secrecy, (4) its value to the business, (5) resources invested in its development, and (6) the ease or difficulty of duplication.[8]

In her September 26, 2025, order regarding Shkreli's motion to dismiss, Judge Chen denied Shkreli's motion to dismiss, holding that PleasrDAO had adequately pleaded that the album is a trade secret under both the DTSA and New York state law. In her analysis under the six factors, Judge Chen notes that while the unique Wu-Tang album does not fit the traditional mold of a trade secret like a customer or formula, its broad definition could apply under the present facts. The judge found that PleasrDAO had plausibly alleged that the album was a trade secret, citing that it was never publicly released and that PleasrDAO had taken "reasonable measures to keep such information secret." The court determined that the album's significant value, with a purchase price of over $4 million, was directly tied to its exclusive and secret nature. The OPA's restrictions on duplication and distribution also supported the argument that the album's secrecy was a core part of its value.[9]

In an era dominated by streaming, *PleasrDAO v. Shkreli* illustrates how scarcity combined with tangible media may be a powerful driver of value for artists through trade secret law. The case suggests that physical media may be poised for a renaissance, revived as a powerful vehicle for exclusivity and protection. However, the model requires more than scarcity and tangibility alone. To preserve value, artists may also adopt rigorous legal and physical safeguards to prevent unauthorized disclosure and distribution. By treating music as a unique and tangible asset rather than a mass-produced commodity, artists may better position themselves to create and protect high-value works than under modern distribution models. In this sense, the Wu-Tang Clan's experiment with *Once Upon a Time in Shaolin* is sparking an urgent debate about the future of music and redefining exclusivity and artistic value in the digital age.

Footnotes

1 https://www.theguardian.com/music/2014/mar/27/wu-tang-clan-one-copy-new-album-once-upon-a-time-in-shaolin

2 *PleasrDAOv. Shkreli*, No. 24-CV-4126 (PKC) (MMH), 2025 LX 487417 (E.D.N.Y. Sep. 25, 2025).

3 *Id*. at *3.

4 *Id*. at *25.

5 *Id*. at *9-10.

6 18 U.S.C. § 1839(5) ; *FaiveleyTransp. Malmo AB v. Wabtec Corp*., 559 F.3d 110, 117 (2d Cir. 2009) (citations omitted).

7 18 U.S.C. § 1839(3).

8 *Integrated Cash Mgmt. Servs., Inc. v. Digit. Transactions, Inc.*, 920 F.2d 171, 173 (2d Cir. 1990) ("The Integrated Cash Factors"); *see also Iacovacciv. Brevet Holdings*, LLC, 437 F. Supp. 3d 367, 380 (S.D.N.Y. 2020) (holding that the elements for trade secret misappropriation under both the DTSA and NY state law are "fundamentally the same.").

9 *PleasrDAO*, No. 24-CV-4126 (PKC) at*23-33.