

## Digital Media and the Informational Politics of Appropriation

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Controversies over cultural appropriation continue to hold interest for artists, scholars and industry. Digital media and portable electronic devices facilitate the casual reproduction and rapid transmission of expression and enable new forms of derivative and referential creativity. At the same time, proprietary claims over cultural forms are multiplying. Some claims invoke intellectual property rights, insist upon exclusive revenue streams, and are rightly considered acts of corporate overreaching. Others assert the moral rights of individuals or the normative priority of community values over the ease of mass availability. The proliferation of claims has reinvigorated investigation of the rationales for intellectual property regimes and heightened scrutiny of the ways in which these mechanisms of cultural property control and shape the production of meaning.

What is cultural appropriation? How does it relate to other forms of artistic *lifting*? What difference does the increased spread and availability of digital technology make to the way we address these questions? Are all cultural forms (material and immaterial) merely information in a digital media ecology that enables everyone to access and make use of the cultural properties of others? Do distinctions between tangible and intangible goods remain relevant under contemporary pressures of globalization and the digitizing capacities of electronic media? These questions all suggest that we must engage with assumptions and/or relations of *propriety* with respect to the use of expressive objects in our creative and scholarly activities. When an art is described as involving the practice of appropriation, the assertion is made that a text has been moved or removed from its authorizing context, or, in some other significant sense, *taken*. In some cases this decontextualization is deliberately and critically intended—to challenge the fields of meanings in which the object *properly* figures, to assert an alternative *ownership* over it and/or to consider the importance of other realms of connotation in which it might signify. The tendency of corporate capital to seize upon new forms of cultural difference and to exploit them in the “conquest of cool” is also described as an activity of appropriation.<sup>1</sup> Other allegations of appropriation are more like accusations; they are made when a cultural text is understood to have been *improperly* recontextualized to the outrage or injury of those who have serious attachments to its positioning in specific worlds of social meaning.

Research into appropriation extends to diverse cultural fields, including fan subcultures, feminist political practice, visual art, fashion, and the industry of popular music. The production and consumption of unlicensed derivative *Star Trek* fiction within fan communities<sup>2</sup> indicates that the corporately held and controlled economy of officially authorized works is bound to the creative and appropriative activities of fans through sophisticated and dynamic negotiations. Encounters occurring within this zone of mutual engagement are not easily explicable as consumer theft, commercial domination of consciousness, or corporate exploitation of consumer labor. Similarly, research on the appropriation of indigenous themes in Australian settler art suggests that cultural borrowing acts as a trigger for broader appreciation of Aboriginal art by non-traditional audiences, and promotes the valorization of Aboriginal art by non-Aboriginal Australian art communities.<sup>3</sup> Feminist artists, filmmakers, and writers reconstitute patriarchal imagery and narratives through counter-hegemonic framings and rhetorical improvisations. These appropriations neither simply reinforce nor subvert the normative ideologies of their “originals” in an ideologically uncomplicated either/or. Moreover, in the commodity culture of the London fashion world, ethnicity and difference provide resources for emergent “multicultural imaginaries” that make easy assumptions about the exploitative commodification of difference problematic.<sup>4</sup>

Nonetheless, power relations at work in global cultural industries may ensure that acts of appropriation perpetuate old inequities in new ways. Numerous legal and anthropological analyses reveal a problematic and complex dynamics of appropriation at work in a global music industry that often takes advantage of Western law’s colonial prejudices and blind spots (including fair use provisions, public domain assumptions, and legal denials of the values of oral cultures and non-literate histories) in order to perpetuate systemic relationships of inequality. Even in cases where the estates of performers recorded by ethnomusicologists are “fairly” compensated according to contemporary industry standards, the calculation of a sample’s importance may unduly privilege the derivative work over the creative work of the sampled performer.<sup>5</sup> Such inequities, characteristic of most cultural industries, reinscribe power relations existing between privileged and underprivileged classes, dominant and marginalized cultures, and developed and developing nations.

For example, anthropologist Steven Feld traces the sampling of a Solomon Islands Baegu lullaby by world music producers who earned handsome profits from their derivative work and the associated licensing fees without compensating the singer or her community.<sup>6</sup> Such appropriations are ultimately predicated on opportunistic legal interpretations of *oral tradition* that shift meaning from “signifying that which is vocally communal to signifying that which belongs to no one in particular.”<sup>7</sup> The status of ethnomusicological recordings as informational goods is also questioned by Coleman and Coombe who (as a moral philosopher and legal theorist, respectively),<sup>8</sup> show us that in certain indigenous societies, music fulfills functions beyond those

of expression or entertainment. Music works performatively in some societies as a legal mechanism that transfers property rights and responsibilities between groups, families, and individuals. The categorization of such recordings as informational goods ignores their social functions to the injury of a community. Both free sampling of these recordings and restrictions of access to the work of a peoples' ancestors (by virtue of intellectual property protections over the recordings) serve to perpetuate histories of colonial subjugation in which indigenous peoples' cultural heritage was systematically collected for the profit of others while targeted for eradication in their own communities. These studies suggest that community rights and the social contexts of cultural heritage are insufficiently recognized, both under global intellectual property regimes and under the prevailing ethos and ethics of a digital cultural commons.

In a globalizing world, the ongoing negotiation and renegotiation of power relations by social actors within and between world cultures can rarely be reduced to commercial exploitation from above, or to subversive anti-capitalist strategies from below. Such extreme relations unequivocally exist, but never in cultural or political isolation. Across an interdisciplinary spectrum of inquiry, power relations emerge as always relational, contingent, and provisional. The valences between *theft* and *appropriation*, *borrowing* and *sampling*, *copying* and *referencing* index the embeddedness of social actors and invariably, if not always intentionally, express the contexts of their positioning in the nature of their cultural encounters. An acknowledgement of these contexts for appropriation enables us to explore a broader range of social, economic, and political implications.

Communications research into popular music suggests that the concept of cultural appropriation is more productively understood as a continuum of power relations ranging from outright exploitation to an easy egalitarianism.<sup>9</sup> Many cultural studies theorists in the past few decades have placed emphasis on the transformative power of cultural engagement, prompting a focus on the dialogic, relational dynamism of hybridity and transculturation that militates against conceptions predicated on the very *existence* of static or bounded societies or cultures.<sup>10</sup> Anthropologist Arnd Schneider advocates for renewed attention to the agency of individuals, rather than social groups and posits appropriation as a persistent and fruitful complement to raw originality in the artistic process.<sup>11</sup> For Schneider, appropriation is a heterogeneous, and continuous brokering— neither a top-down coercive strategy, nor a bottom-up cultural refusal or reconfiguration of dominant cultures. Moreover, controversies over appropriation are inextricably linked to broader considerations of multiculturalism, trans-nationalism, diaspora, cosmopolitanism and the vexed politics of community. In so far as globalization is stimulated and enabled by global information communications, the politics of appropriation are inseparable from the substantive social repercussions of technology.

Technology amplifies the amount and arguably the significance of copying, plagiarism, appropriation, and theft. Inexpensive, user-friendly hardware and software facilitate easy manipulation of digitized culture in cut-and-paste environments and tiny mass storage devices provide the means to physically transport vast amounts of data. Philosopher Albert Borgmann sees this shift in transmissibility as a transition from linguistic “information *about* reality” to the purposive transcription of “information *for* reality” and finally, as technologies enable massive and instantaneous informational flow, “information *as* reality.”<sup>12</sup> This final, coextensive informational condition renders the lived environment and the social interactions that occur within it extensively accessible for capture and transmission. “Information *as* reality” can also be understood as manifest in the cultural imperative to reveal and document the minutiae of the everyday through self-monitoring socio-technological practices. Blogging, social networking, and other forms of life-logging populate the informational environment with a proliferation of cultural data no longer legitimated by the curatorial expertise and institutional rationality of the archive, the museum, or the gallery, or for that matter, by religious authorities, elders, or governments.

According to media theorist Lev Manovich the logic of cut-and-paste belongs to a set of “operations” deployed across a wide range of software, platforms, tasks, and data types.<sup>13</sup> These organizing tropes of the graphical user interface extend beyond the screen, come to play an important role in the recombination of culture and “become our general cognitive strategies.”<sup>14</sup> Numerous contemporary cultural activities or techniques express the operations of selecting and compositing, including sampling in hip-hop and electronic music, the mixing of DJ sets, “modding” of video games, and practices of blogging. Increasingly more of our lived experience and social interaction is mediated by digital technology and, by extension, susceptible to these new logics. Yet at the very moment when culture is almost everywhere, and nearly always accessible, digitizable, and instantaneously transmissible, its contents are increasingly closely held by intellectual property and emerging cultural property regimes.<sup>15</sup> Commodity culture propagates the total penetration of brands, products, and marketing into the sinews and fissures of the everyday and simultaneously demands tighter and tighter controls over commercial culture as intellectual property. Not surprisingly, battle lines are being drawn between users and consumers, who see themselves as active producers and creators in digital environments, and corporations determined to control their activities.<sup>16</sup>

One unanticipated consequence of this new logic is a new anxiety about the transmission of cultural forms by minority communities who fear *both* corporate appropriations and those of digitally savvy consumers who champion a global cultural commons in which expressive use takes precedence over all other social values.<sup>17</sup> Although these communities’ interests are rarely served by simple commodifications, they are encouraged by powerful global institutions to consider their culture possessively as a resource in need of protection in a neoliberal economy.<sup>18</sup>

In empowering users to easily transmit and share data, digital informational ecologies give rise to a shared social imaginary in which *all* informational goods can be moved freely. It is not that duplication technologies do not exist prior to the widespread adoption of digital technologies, but rather, a matter of the ease of reproduction and distribution. Dragging and dropping, cutting and pasting, uploading and downloading are convenient, easy and quick in comparison with photographic darkroom techniques or magnetic tape recording. The unrestricted circulation of immaterial cultural expressions via digital technologies may be naturalized as a form of artistic commonsense promoting the social transference of similar attitudes and propensities to material cultural expressions. “Net.art” and new media art often navigate the expressions of informational culture by deploying the World Wide Web as a vast store of source materials to remix, recontextualize, and reconstitute within new, derivative works or projects. Mark Napier’s *FEED*, *RIOT*, and *Shredder*<sup>19</sup> disassemble the text, images, and other properties of websites and present them in reconstituted interfaces, while the artist’s *stolen* comprises a collection of images of body parts harvested and retouched by the artist. Before the Internet, these photographs of physical subjects would probably have remained personal ephemera. With the World Wide Web, photos in digitized format are accessible, downloadable, and easily modifiable for authorized and unauthorized uses. Material, or in this case corporeal, objects thus enter into a symbolic economy in which the immaterial representation circulates in unforeseen ways.

Other new media works explore the intersections of information culture, the Internet, and intellectual property by opening up private information and data to the Internet, as in the case of 0100101110101101.org’s *Life Sharing* project, a “real-time digital self-portrait” that made the full contents of the artists’ personal computer available online, in real-time, potentially converting the intimately personal into the radically public as an invitation to appropriation.<sup>20</sup> If these projects open up or explore the limits of information exchange and intellectual property, other works engage material objects in what can be viewed as an informational manner, perhaps incited by the normalization of digital information transfer. Joel Ross’ *Room 28*<sup>21</sup> is noteworthy as an expansion of the digital cultural logic of cut-and-paste applied to the material physical setting of a hotel room. Immaterial, affective associations linked to the hotel room in the artist’s character narrative are literally, and materially, cut and pasted into suitcases, made as portable as the memories they suggest. In contrast to the use of photography to establish setting in Ross’ mixed media work, the documenting of the hotel room itself is conducted materially, as if in this instance the use, manipulation, and organization of photographs would have been insufficient to realize the artist’s intent.

Within the circuits of appropriation we have described, creators ceaselessly test the limits of legal-judicial rationality. They interrogate the architecture of intellectual property regimes. They challenge expectations of originality and venture into the contested terrains of intellectual property

regimes to question the social construction of originary genius in literature and the arts, and the legitimacy of all authorizing contexts. Artistic processes toy with the limits and contours of intellectual and cultural property regimes that brand one creative act as theft or piracy and celebrate another as a novel interpretation or arrangement. While artistic works that grapple with the sociopolitical construction of theft clearly predate the last decade's digital media ecology, the curatorial logic under which they are compiled is arguably incited and inspired by the cultural logic that underpins digital media. The intensification of flows and the intensification of governance over the movement of digital cultural goods will provoke new anxieties and new anarchies with respect to cultural appropriation and transculturation that promise to animate both arts of lifting and the controversies in which they are bound to figure.

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<sup>1</sup> See Thomas Frank, *The Conquest of Cool: Business Culture, Counterculture, and the Rise of Hip Consumerism* (Chicago: University of Chicago Press, 1997); Deborah Root, *Cannibal Culture: Art, Appropriation, and the Commodification of Difference* (Boulder, CO: Westview Press, 1996); and Bruce Ziff and Pratima V. Rao, "Introduction to Cultural Appropriation: A Framework For Analysis," in *Borrowed Power: Essays on Cultural Appropriation*, eds. Bruce Ziff and Pratima V. Rao, (New Brunswick, NJ: Rutgers University Press, 1997), 1-27.

<sup>2</sup> Henry Jenkins, "Star Trek Rerun, Reread, Rewritten: Fan Writing as Textual Poaching," in Henry Jenkins, *Fans, Bloggers, and Gamers: Exploring Participatory Culture* (New York: New York University Press, 2006), 37-60; and Camille Bacon-Smith, *Enterprising Women: Television Fandom and the Creation of Popular Myth* (Philadelphia: University of Pennsylvania Press, 1992); both discussed in Rosemary J. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law*, (Durham: Duke University Press, 1998).

<sup>3</sup> Nicholas Thomas, "Appropriation/Appreciation: Settler Modernism in Australia and New Zealand," in *The Empire of Things: Regimes of Value and Material Culture*, ed. Fred R. Myers (Santa Fe: School of American Research Press, 2001), 139-163.

<sup>4</sup> Claire Dwyer and Philip Crang, "Fashioning Ethnicities: The Commercial Spaces of Multiculture," *Ethnicities*, 2 no. 3 (2002): 410-430.

<sup>5</sup> David Hesmondhalgh, "Digital Sampling and Cultural Inequality," *Social & Legal Studies*, 15 no. 1 (2006): 53-75.

<sup>6</sup> Steven Feld, "A Sweet Lullaby for 'World Music,'" in *Popular Music: Critical Concepts in Media and Cultural Studies*, ed. Simon Frith, (London: Routledge, 2004), 62-86.

<sup>7</sup> *Ibid.*, 76.

<sup>8</sup> Elizabeth Burns Coleman and Rosemary J. Coombe, "Broken Records: Subjecting 'Music' to Cultural Rights," forthcoming in *The Ethics of Cultural Appropriation*, eds. Conrad Brunck and James O. Young (Malden: Blackwell, 2008).

<sup>9</sup> Celia Colista and Glenn Leshner, "Traveling Music: Following the Path of Music Through the Global Market," *Critical Studies in Mass Communication*, 15 (1998): 181-194.

<sup>10</sup> Richard A. Rogers, "From Cultural Exchange to Transculturation: A Review and Reconceptualization of Cultural Appropriation," *Communication Theory*, 16 (2006): 474-503.

<sup>11</sup> Arnd Schneider, "On 'Appropriation'. A Critical Reappraisal of the Concept and Its Application in Global Art Practices," *Social Anthropology*, 11 no. 2 (2003): 215-229.

<sup>12</sup> Albert Borgmann, "Information and Reality at the Turn of the Century," in *Philosophy of Technology: The Technological Condition: An Anthology*, eds. Robert C. Scharff and Val Dusek (Malden: Blackwell Publishing, 2003), 571-577.

<sup>13</sup> Lev Manovich, *The Language of New Media* (Cambridge: MIT Press, 2001), 117-175.

<sup>14</sup> Manovich, *op cit.*, 118.

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<sup>15</sup> See Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law* and Scott Lash and Celia Lury, *Global Culture Industry: The Mediation of Things* (Cambridge: Polity Press, 2007), 148-150.

<sup>16</sup> Siva Vaidhyanathan, *The Anarchist in the Library: How the Clash Between Freedom and Control is Hacking the Real World and Crashing the System* (New York: Basic Books, 2004).

<sup>17</sup> Rosemary J. Coombe and Andrew Herman, "Rhetorical Virtues: Property, Speech, and the Commons on the World Wide Web," *Anthropological Quarterly*, 77 no. 3 (Summer 2004): 59-74.

<sup>18</sup> Nicole Aylwin, Rosemary J. Coombe and Anita Chan, "Intellectual Property, Cultural Heritage and Rights-Based Development: Geographical Indications as Vehicles for Sustainable Livelihoods," forthcoming in *Intellectual Property: The Human Rights Paradox*, ed. Willem Grosheide (Cheltenham: Edward Elgar).

<sup>19</sup> Mark Napier, "FEED," "RIOT," "Shredder," *potatoland*, <<http://potatoland.com>>.

<sup>20</sup> Discussed in Mark Tribe and Reena Jana, *New Media Art*, ed. Uta Grosenick, (Cologne: Taschen, 2006): 26-27.

<sup>21</sup> See 55-62.