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Chameleon Identities: Electronic Music and the Digital Age

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{Communications course}

I am willing to bet that—in spite of your age, gender, race, or sexual orientation—you have, at some point and for some reason, put together a playlist. Maybe you wanted a friend to hear a few of the unbelievable new songs you found, so you tossed them on a USB drive to share. Perhaps after a crushing breakup in high school you spent painstaking hours arranging the track order of your favorite sad songs to achieve the perfect depression-progression. Maybe you needed motivation to work out, so you collected dozens of songs that pumped you up and set them to shuffle. Or it's possible that during that one amazing summer you collected a bit of a soundtrack, and now that nostalgic amalgam always brings you back there. Whatever it looked like and whatever your reason, making a mix means that you have participated in the widespread musical phenomenon where artists and everyday music listeners take preexisting musical texts and remix them to make a statement that is at once new and also a testament to something old. It is an important way that people engage with music because it has a distinctly expressive effect. You are not the first to do this, and with the rise of electronic music, you will most certainly not be the last.

The genre of electronic music has largely risen out of that desire to take cultural texts and remix them to make something different than what you started with. In the past decade, digitalization has made the practices of sharing and remixing far easier and far more visible than ever, but it's crucial to note that they didn't start with development of the mp3 or even with the Internet. Rather, those technologies have simply acted as huge facilitators making sharing and remixing possible on a much grander scale than ever existed previously. In electronic, artists have found dozens upon dozens of ways to sample original music, sample each other, and remix it all to make something completely different. As a friend described it to me, it's as though you are walking through a forest and you come to a river. You need to keep moving forward, so you

cut down a tree and make a canoe; when you're finished you have made something new and different out of the old materials you found when you arrived. In that way, remixing is a form of interacting with and performing music—musicking[1], if you will—that has been building for a very long time. For instance, consider literal mix tapes made on cassettes or the way that artists have for ages covered other songs to achieve slightly different effects. None of these practices are new; but the digital environment having made them so much more rampant forces us to confront a few snags.

Most importantly, in the digital era we face a difficult question: how do we balance musickers' desire to share and remix music with the need to justly compensate artists for the use of their original work in these mixes? Although the digital environment really hasn't changed the way that people interact with music, any person who has gone about obtaining music in the last fifteen years has certainly noticed the huge ramifications that the digital era has had with regard to how artists are able to monetize their work. For instance, and despite the commercial music industry's bitter resistance, peer-to-peer sharing is forcing a very serious rethinking of how music gets sold. Despite this dramatic upheaval in the way the music industry has functioned for the last several decades, the regulatory laws in America—namely copyright laws—have largely failed to evolve along with the available technology and pertinent user practices. This failure is highly problematic because how we regulate music impinges on musickers' ability to use cultural texts in the way they have demonstrated to be ideal—that is by sharing, sampling, and remixing even in the face of huge potential legal ramifications. Thus the conflict becomes particularly problematic when the way that we regulate music does not serve simply to protects an artist's right to profit from original work, but now actually flies in the face

[1] Term developed by Christopher Small, see Works Cited for further citation

of an entire musical movement by impinging on the ability to use cultural texts for rich, collaborative musical expressions.

Today, we are living through the next biggest addition to the history of music, and it's the age of all things digital. Electronic music as we know it today did not exist a few decades ago, because the tools to create it really did not exist a few decades ago. However, electronic music represents a large leap in a musical evolutionary process that has been a long time in the making. Electronic music's propensity for sampling and remixing musical texts of the past is a crucial part of how it draws in the cultural associations of older texts, adds to them, subverts them, reiterates them, and uses them to speak new personal and cultural truths. By failing to evolve regulatory practices along with the technology that makes this expression possible, we impede the creation of new musical texts which transgress lines of time, genre, and identity.

Literature Review

The history of copyright law in America is nearly as old as the country itself, and the principle was deemed important enough to be provided for in Article 1 of the US Constitution. The objective of the copyright provision was to protect—for a limited time—the right of man to profit from his own ideas. In its ideal form, this objective is good: no one would feel motivated to produce art, advance science, or create useful new inventions if his right to profit from his own work was not protected. However, the US government has also had a history of permitting certain questionable practices with regard to copyright, and the waters get murky when an entrenched industry's capitalist interests come into play.

Here it becomes useful to look at the evolution of international copyright law in the context of print since there is a particularly illuminating aspect to the history here. During the latter half of the nineteenth century, the United States government on the whole did not really

recognize or enforce any international copyright laws. That enabled numerous, new publishing houses to spring up and compete with entrenched publishers by selling pirated European books to American audiences. The US government did not protect those European authors for two reasons: first, they were not American citizens and thus the government had no interest in protecting their right to profit from their work; second, American businesses *did* stand to profit from a neglect to recognize international copyright. Thus, with no copyright enforcement to demand that they pay royalties, the startup publishers could undersell their older, more entrenched competitors. Only when their own profits were at stake did the entrenched and more powerful publishing houses begin to rethink their stance on international copyright law—and only then did they suddenly began to feel sympathetic to the plight of pirated European authors. The ultimate changes to the law, thus, were not produced by a sudden, passionately altruistic desire for artists to be compensated for their work; rather, they had a firm basis in protecting "the development and consolidation of industrial capitalism" (Striphas 34). This has set the basis for US copyright tradition to the present day, with a main objective being the protection of the capitalist interests of deep-rooted businesses and the strongest lobbyists.

Following the evolution of copyright law and the resultant ability to monetize music, it becomes appropriate to recall critiques of what that monetization does to music as a cultural product. Theodor Adorno very notably asserted that putting music as a cultural product up for sale assisted in its fetishization. Essentially, in order to successfully market music for sale, the industry (with complicit assistance from the audiences) defines the identity of a given artist and his or her music. In not so many words, they brand the artist and his or her music as concretely *this* or *that* in order to market it most effectively. That process of branding ultimately causes the music to broken up and fetishized, which leads to what Adorno called a "regression of listening"

(Adorno 46). This process could be further elucidated by comparing it to the fetishization of the female body: the feminine form gets visually cut up with an emphasis on the most sellable, inherently female parts, and that inhibits the viewers' ability to comprehensively see the whole. Similarly, when music is branded, cut up, and fetishized, Adorno states that our ability to comprehensively listen becomes "forcibly retarded" (Adorno 47).

Between copyright and selling practices, this is essentially how the music industry game was played up through the twentieth century until one serious wrench was thrown into the equation: the development of the mp3. Each time technology changes, there is always a new set of problems that copyright law must evolve to address. For instance, the capabilities of cassette tapes and later CDs made copyright enforcement trickier because the ability to reproduce the music with fidelity became steadily easier. Nothing, however, so drastically upset the system as the way that users took advantage of the mp3:

> "If one is looking for the cultural origins of the promiscuity among illegal file-sharers, one need look no further than this founding moment. The possibility for quick and easy transfers, anonymous relations between provider and receiver, cross-platform compatibility, stockpiling and easy storage and access – all were built into the MPEG form itself long before the age of Napster, Gnutella, Hotline, iTunes and Rio." (Sterne 829)

Yet Sterne argues that the mp3 ought to be looked at as a cultural artifact rather than as an unchanging object that—all by itself—impacted the music industry's ability to monetize its products. Sterne begs, "…consider the mp3 as an artifact shaped by several electronics industries, the recording industry and actual and idealized practices of listening" (Sterne 826). He proposes that it is users' "actual and idealized practices" which have shaped how listeners

grabbed onto the mp3 and used to facilitate listening and sharing as they found to be ideal. Essentially, musickers have always wanted to share and remix music; the mp3 and the Internet have just made it possible and easy for them to do as they pleased.

Lawrence Lessig argues that it is this sudden, dramatic increase in the ability to share and acquire music that facilitates remix, which is a creative process that he argues existed long before the advent of digital. For evidence, we can again consider mix tapes or covers. In the context of cassette mix tapes, Lessig states, "They were sometimes creative works on their own—mixes created to demonstrate a knowledge of music or mixes to express a certain message" (Lessig 967). Hugely important to note is that Congress actually supported that kind of ability for users to remix with the Audio Home Recording Act of 1992: "Play lists are a kind of expression, and the freedom to craft a play list encourages this expression" (Lessig 967). Today, technology has made more intense remixing (i.e. grafting actual fragments of songs or audio clips together) a practice that is ever increasing in ease; however, "…this form of speech—remix using images and sounds from our culture—is presumptively illegal under the law as it stands" (Lessig 965). That refusal in the law to adapt to current technology and trends impacts the ability of users to contribute to the marketplace of ideas by expanding on and remixing original texts with the tools they have at their fingertips. This is problematic, Lessig feels, because "[Remix] will become increasingly central to how we understand our culture" (Lessig 970).

But what makes remix so culturally important? To start, Congress felt that it was a mode of expression important enough to protect (to an extent) legislatively. On a related note, Sonya Hofer details how the Internet and all its attendant technologies have given artists a limitless "range of options for sounds and … sonic styles at [their] fingertips" which make it possible for "each version of one's self functions as a separate identity [to be] represented through different

musical styles" (Hofer 312). She suggests that electronic artists play with the way that the Internet offers an ability to curate multiple identities. For instance, consider the different ways a person can define his/her identity on social media, dating sites, or other Internet forums. This is, she states, "a development with profound social and cultural ramifications [because] recent technologies have further enabled, destigmatized, and for some individuals, made preferable or even necessary, this idea of the performed, multiple identity" (Hofer 308). Essentially, the Internet itself gives users many opportunities express the multiple facets of their identities that would remain hidden in off-line life; likewise, electronic music provides that same ability by allowing artists to express different aspects of their identities through different musical representations.

With all of these changes so fresh, it is painfully sad and restrictive that regulatory law has not caught up with the times. Clay Shirky laments, "It is our misfortune, as a historical generation, to live through the largest expansion in expressive capability in human history" (Shirky "Does the Internet Make You Smarter?"). This is not because he considers the new technology to be a bad thing, but rather because we as a society have yet to implement the appropriate response to the technology now at hand. He proposes that, "Just as required education was a response to print, using the Internet well … [will] require new cultural institutions as well, not just new technologies" (Shirky "Does the Internet Make You Smarter?"). In a journal article on the implications for copyright in the digital environment, Arias and Ellis suggest that those 'new cultural institutions' Shirky references could potentially be void of copyright as we know it. They state:

> "A strong argument can be made that removing copyright laws for recorded music will be welfare improving…due to the increasing transaction costs of providing

> and maintaining copyright protection for recorded music combined with the ability of music producers to receive revenue in complementary markets." (Arias & Ellis 131)

Their suggestion would lead us to believe that perhaps we actually can have the best of both worlds: fair remuneration for artists *and* the freedom to borrow cultural texts as one sees fit. Among the discussions in this literature review we have caught a glimpse of the current state of affairs and the resultant image indicates where our cultural institutions will need to be overhauled: namely in the aspects of how our society regulates music, how music becomes monetized, how we limit or restrict users ability to interact with musical texts, and the attendant implications that our answers to these questions will have for how electronic music mediates social identities.

Discussion

We know from the literature review that there is an extensive history to copyright in America. Theoretically, that is an excellent thing: artists need to be fairly compensated for the use of their creations. If they were not, it would not be sustainable for them to go on producing the cultural texts that everyone else may hear and enjoy. However, in slews of recent lawsuits, it has been the artists taking the record companies to court. In one high profile instance, a class action lawsuit was filed against Universal for a failure to pay artists in accord with what the company made selling the artists' music. Artists including Eminem and others argued that in the digital realm they are not making *sales* so much as *licenses,* and (at least under many older contracts) they have a right to a much greater portion of the profits when it is a license being sold. That makes sense from a copyright perspective—essentially it is a set of rights being traded for monetary compensation. Tech Dirt writer Mike Masnick notes that, "new [contracts],

not surprisingly, have been changed" to amend that issue and protect companies from having to pay artists more (Masnick "Record Labels May Owe Artists Close to $2 Billion"). Ultimately, these sleazy legal schemes beg us to question why it is that artists even need to include record companies in the music making process.

For a long time, artists have had to go through record companies to reach audiences because there was a bottleneck in the distribution process. Only so many songs can air on the radio in day, and music retail outlets had only so much physical shelf space available for displaying and selling music. By capitalist logic, it then made sense to carry only those artists that produced the greatest number of sales. That logic produced a hit driven industry model where record companies backed only that which could turn the most significant profit. The downside to that model is that only a small number of artists actually sell tracks at that kind of frequency, and thus only a very small subset of the artists out there could typically make their way in front of audiences. That was bad for artists because it greatly reduced their chances of being heard, and it was bad for audiences because the industry simply assumed that if it didn't sell by the millions then nobody must want to hear it—or at least it was not worth their while to carry it.

Then along came the Internet and the advent of the mp3, and all of that changed. Artists that were not "hits" and whom the record companies previously had no interest in promoting could suddenly make their way in front of audiences with or without industry assistance. Audiences were suddenly exposed to a lot more musical content, and they found that their tastes were more diverse than they previously could have imagined. But it also produced a technological reality where copyright didn't necessarily mean all that much because it was so much easier to share, sample, and remix than ever before. With so many more people

committing the offence, enforcement became a lot more complicated. Certainly the music industry can and does sue violators, but every person who has procured music in that last decade knows that legal threats for copyright violation have not stopped people from using music exactly as they see fit. Ultimately, those ideal visions of how music should be sharable, the insatiable desire to remix cultural texts, and the sudden ability to easily do so culminated in the electronic genre.

Electronic music is important for two main reasons, the first being the fact that its artists are participating in a radical subversion of how the music industry has monetized music for decades. As a genre truly born from the digital era, huge numbers of its artists have been enthusiastic adopters of digital distribution methods because it meant they could reach niche audiences and circumvent the record companies who weren't necessarily interested in helping them—or at least not without taking a huge cut. One such instance is the performing group Pretty Lights, discussed by blogger Oh Werd:

> "Pretty Lights gave away their albums for free, via digital downloads from their homepage. In the beginning they broke even because they weren't making any money from their albums, but saved tons of money by not manufacturing and distributing CD's. As a result, their popularity spread faster than I Can't Believe It's Not Butter. Pretty Lights earned the attention of their fan base and … Their live touring took their success and profits to the next level." (Oh Werd "Musicians Take Note")

Groups like Pretty Lights (and Radiohead, Lotus, Lil Wayne, and many, many more) exemplify how artists actually can make money from their work in the digital environment, and they're proving that it doesn't have to include record companies. What they're doing is called cross

subsidization: by giving away their music as free downloads online and subsidizing the work by selling concert tickets and merchandise to loyal fans, they make more money than they likely would have by going through a record company and selling their music in the traditional, old fashioned way. This, as blogger Oh Werd notes, is largely because these artists recognize what fans want (i.e. free music) and they give it to them; fans' happiness and satisfaction comes top priority. As we've see from the enormous success of these experiments, fans are rewarding the effort. Thus we see that the old model is not, as record company execs would have us believe, the only viable model.

So why is regulative law lagging so far behind the times? Lawrence Lessig has noted that the technology of the day has policy makers scrambling, and he feels that the industry isn't recognizing that "controlling distribution is not the only way for … copyright owners to be rewarded for their work" (Lessig 970). Lessig is completely correct as proved above, but adapting to the new "free" (or, more accurately, cross-subsidization) model might cause record companies to lose out on what they believe should be their cut. So while the music industry claws to hang on to its 20th century business model and traditional conceptions of copyright, many electronic artists have simply adopted new modes of monetization—ultimately leaving old school record companies out of the equation. That means the law that everybody is subject to is being perpetuated by an industry of entrenched businesses unwilling to adapt for fear of profit loss, and that simply does not make sense.

As a potential solution to the copyright conundrum, Lessig proposes the use of Creative Commons. This is an offshoot of copyright law that is still in relative infancy. "Using a CC license, an artist can signal, for example, that she is willing to allow noncommercial use of her creative work, or commercial use so long as attribution is given, or commercial use so long as no

derivative is made. These are three of about eleven options" (Lessig 972). Worth noting is that under Creative Commons there *is* an option to allow for remixes, both for- and not for-profit. Currently, Creative Commons are limited because it's not the common practice, but it is a start. By moving distribution to free, online platforms like blogs or social media, artists can cut corporations largely out of the equation; by adopting Creative Commons licensing instead of copyright, artists can simultaneously protect their rights to their work while designating the ability for other artists to mix and remix those tracks without fear of legal ramification. Revisiting Lessig's argument, we are also reminded of the undeniable point that 'remix' is the way our culture has always been: we *want* to interact with texts, musical or otherwise. They are living bits of culture; they are breathable filters for identity. Although Creative Commons are still relatively new not yet used widely enough to change the game, it is still incredibly exciting to see the beginnings of such marked attempts to change the music industry's infrastructure.

The second major reason that electronic music is important can be explained by its unique modes for mediating identity. We take as a given that music has the potentiality to help listeners carve new identities for themselves, alter patterns of behavior, and ultimately unsettle traditions (DeNora 63). Certainly we see how artists in the digital environment unsettle business traditions. Just as important, electronic artists in particular have shown a great propensity for being extremely chameleon-like in their musical expression reflecting the, "…shifting nature of identity in the age of the internet and digital technologies" (Hofer 308). The Internet has a rather anonymous nature where users can experiment with being whomever they want: whether on a different dating sites, Facebook, Instagram, Twitter, Vine, or some other Internet platform, a person can "express multiple and often unexplored aspects of the self…play with their identity and to try out new ones" (Turkle qtd. in Hofer 309). Electronic artists, born from the capabilities

brought by the Internet, are engaging in a very similar practice. By absorbing cultural texts, morphing them, joining them, adding, altering, and expanding them, electronic artists articulate different facets of their identities with different musical expressions. Thus with virtually every guitar riff, voice clip, and sound at their fingertips, electronic artists engage in a collaborative expression which flies in the face of copyright as it now stands because authorship is no longer singular or distinct. French electronic artist Wax Tailor uses vocal cuts in his track "Once Upon a Past" to explain the point and cultural benefit of this practice quite nicely: "By virtue of being able to freely appropriate / From the musical past / And to make new combinations, / And thus, new meanings / The story demonstrates / That the society quote / Free to borrow and build upon a past, / Is culturally richer than a controlled one" (Wax Tailor).

Conclusion

In the digital era, electronic music artists have subverted longstanding ideas about authorship and ownership by creating new texts that draw on old ones. Copyright law has failed enormously to adapt or even attempt to keep up with these practices and the technology that makes them possible. Yet, that ability to remix is an important expressive practice—as Wax Tailor's "Once Upon a Past" so nicely put it, we as a society become culturally richer when we are free to use and build on what came before us. Doing so has undermined the traditional conception of copyright law and destabilized the music industry as it has functioned for the past few decades, but that is not necessarily a bad thing. We have demonstrated through experimentation that artists can be compensated for their work in the digital environment and free of meddling corporations. With that crucial aspect of the equation held in balance, there is no reason why we as a society ought to allow the perpetuation of antiquated laws that restrict expression. On the contrary, when regulatory laws more effectively serve the interests of

entrenched businesses than they do the artists they were originally designed to protect, we have a problem. When those ill functioning laws actively impede artists from using the cultural texts and technological tools at hand, we have cause for a revolution.

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