Article

Homage or Biting Lines: Critically Discussing Authorship, Creativity, and Copyright in the 21st Century through Hip-Hop

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Abstract: The inherent traits of digital media have challenged traditional understandings of artistic authorship and creativity. This division in understanding can clearly be observed in the popular culture context of hip-hop music. Hip-hop initially began with analog technologies such as vinyl record players, then transitioned to predominately digital mediums. This changeover in artistic mediums has been well documented by opposing viewpoints from hip-hop artists, consumers, record companies, and lawyers. By focusing on hip-hop for critical discussion on artistic authorship and creativity, art students can engage in discussion reflecting on their own artistic and online practices, and how these behaviors are legally supported or suppressed by copyright law.

1. Introduction

The rapid development of digital technologies and their appropriation by both amateur and professional artists creates challenges to the modernist understandings of authorship and creativity. In addressing the philosophical debate between modern and postmodern art with students, Broome (2015) described his efforts using hip-hop as a tool to critically discuss the complex topics of appropriation, recontextualization, and layering in postmodern art. In this example, the general emphasis is on having students explore postmodern art and artists, discussing hip-hop examples alongside Sherrie Levine, Robert Colescott, the Guerrilla Girls, and others. Following the suggestions from this work to address larger societal issues, the discussion can be continued and refined to address common student digital media habits in relation to copyright laws and how authorship and creativity are impacted in this relationship. The purpose of this article is to support art educators in developing critical discussions regarding authorship, creativity, and copyright laws in the 21st century, using hip-hop as a connection to student interests.

All digital media is created with a binary code consisting of 1s and 0s. The nature of binary code allows for the quick duplication of an original file and instant sharing of content over the Internet, allowing others to both possess and alter the digital work. These traits inherent to digital media allow for both the legal and illegal creation of content by the lay-person and the amateur artist. This issue can be easily identified when looking at current copyright laws and common Internet practices. Re-purposing images and videos to create memes, professional content being juxtaposed in an amateur Youtuber's video, or fan art expanding on popular culture narratives, are all examples of common Internet practices. These digital artworks have qualities unique to the digital binary medium in which they are formed, posing questions of originality and aesthetic value. These digital artworks have qualities unique to the digital binary medium in which they are formed, posing questions of originality and aesthetic value. While aesthetic issues have been by Mercedes (1998) in proposing

an aesthetic paradigm shift for digital media, there is still much unrest regarding authorship and the creative processes of creating digital artworks.

When content is remixed it could be viewed as paying homage or it could be viewed as stealing other's creative content, which is referred to as biting lines. The obvious and subtle use of remixing in hip-hop provides ideal content for critically exploring the influences of digital media and the creative process from both artistic and legal perspectives. If civil-society and the law are to support creative endeavors using digital media, then informed discussions relating to the values of authorship and the creative process must take place in the art classroom to produce knowledgeable participants to develop resolutions.

2. Authorship and Creativity

In order to discuss the concepts of authorship and creativity, it is important to start by addressing foundational understandings that can shape bias to allow for a detailed critical review of current perspectives in a productive manor. Such foundational understandings can be compated to the common use of the term, normal science. Normal science refers to a paradigm that is so prevalent that it does not require explanation, it is just referenced as fact (Kuhn 2012). By operating within a normal science framework, there is an agreed upon view of how to interpret and address issues. This can be highly beneficial for various domains of knowledge to develop within society. When addressing creativity and authorship, one of the most influential paradigms comes from Plato's Phaedrus (Yunis 2011). In Phaedrus, Theuth (the God of writing) presents the concept of writing to King Thamus for his review of the new technology. Theuth explains that documenting words through the process of writing allows for accessible records that can be disseminated to large audiences and can be stored to stand the test of time. Thamus notes that the technology of writing does not increase an individual's knowledge, it instead allows for forgetfulness since the knowledge is accessible as a remote form of memory. Thamus is also highly critical of writing as the technology separates the words from the author, thus denying others immediate discussion with the creator. That in turn creates an environment for many people to claim false knowledge and/or use the content for unintended purposes. Through this interaction with the first form of recording technology, writing, we see the emergence of value on the author and the original. Authors are given utmost value as the creator of the words and they must be traced back from the writing in order to clarify knowledge. This action simultaneously validates the author as the original and the writing as a copy of the original, making the copy less valuable. This Platonic view of authorship from 274–279 BC has arguably been considered normal science for over 2290 years, still influencing present day perspectives of creativity and authorship.

In visual culture, the lived experiences of the individual are prioritized and the term art is expanded to include fine art as well as other items that individuals interact with, connect to, and use to form meaning and identity (Freedman 2003). Here the marble podium of fine art is removed to value lived experiences and the setting of artwork (Dewey 2005). Through the expansion of what is identified as art in a postmodern, visual culture paradigm, new everyday mediums such as, but not limited to, video games, commercials, product packaging, clothing, augmented reality, and virtual reality, all claim the label of art and should accordingly be addressed in the art classroom. Since value is placed on the individual's experiences and interests, visual culture art educators become tasked with creating an evolving student-centered curriculum. Currently, one prevalent global trend is hip-hop music and aesthetics. By addressing hip-hop's use of sampling and remixing in the art classroom, art educators can introduce critical theory to discuss how society values authorship, creativity, and copyright alongside the introduction of new digital media through a common and approachable conversation topic.

3. Hip-hop

Hip-hop provides engaging student content that opens avenues to discuss larger potential paradigm shifting concepts (Broome 2015) of creativity and authorship through the use of sampling and digital media. In one definition of sampling, Hosken (2014) describes it as "...drawn from hip-hop and other pop genres, in which a recognizable portion of an existing recording, such as several measures of music or a characteristic vocal sound, is used in the creation of a new song (p. 73)". In this understanding, a small portion of another creation is used to help produce a new artistic work. This use of remix by hip-hop artists has long been recognized as a creative art form and has been documented by DJ Spooky, That Subliminal Kid (Miller 2010). Sometimes, the use of sampling in hip-hop can be easily identified in tracks that draw from highly popular and recognizable sources, such as the rhythmic hook of Rick James's "Superfreak" in MC Hammer's "U Can't Touch This", or the bass line of Queen and David Bowie's "Under Pressure" used in Vanilla Ice's "Ice Ice Baby". Other uses of sampling can be more subtle, drawing from less known sources, such as The Notorious B.I.G.'s use in "Juicy" of "Juicy Fruit (Fruity Instrumental Mix)" by Mtume in the opening and main melody, along with the even more subtle use of Rappin' Duke's laugh from the track "Rappin' Duke" played in the background at 0:41. Referencing current prominent names of hip-hop artists, such as Drake, Kanye West, A$AP Rocky, and Kendrick Lamar, can provide great examples of sampling in songs to engage students in critical discussion. One large aspect of hip-hop culture that has not been addressed yet is the disc jockey (DJ), who plays exclusively prerecorded music on vinyl record turntables or digital variations of the vinyl record turntable.

The DJ has a special focus in the sampling and remix culture of hip-hop. In the early stages of the DJ, an individual would simply play records on the record player by selecting a song or an album to play one after another. In this sense, the turntable was simply a tool for playing the prerecorded music and the DJ was just a player of records. As the hip-hop movement grew, so did the role of the DJ. DJs such as Kool Herc, Afrika Bambaataa, Grandmaster Flash and his protégé Grand Wizard Theodore, began to alter the relationship between the DJ and the technology of the turntable. DJs created techniques such as the "breakbeat", where a song will loop right before the hook plays, and "scratching" where the record is spun in reverse creating a new sound profile. The developments of the breakbeat and scratching were significant because the job of a DJ now required skill to produce quality novel music through the editing of prerecorded music. This also turned what was once considered a finished product, the recorded song, into raw material to use for creative purposes, to scratch and remix.

Remix, as the name suggests, is re-mixing content. While the specifics of remix can change depending on the historical or cultural references, generally, remix consists of reconstructing content to present it in a new way. Remixing is separate from a mash-up, where an artist layers two or more songs to produce new content. One example of a mash-up is the landmark album, *The Grey Album* by DJ Danger Mouse (Brian Burton), as a mash-up of two albums: *The White Album* by The Beatles, and *The Black Album* by Jay-Z. In creating *The Grey Album*, DJ Danger Mouse layered the digital audio files of *The White Album* and *The Black Album* to combine the songs so that the melody of one source supports the vocals from another. Here the original sources are clearly recognizable despite being layered together to create a new musical piece. Another DJ, Girl Talk (Gregg Gillis), used mash-up techniques to include over 300 different sample sources in just 14 tracks in the album *Feed the Animals* released in 2008. While each DJ took various interpretations of mashing up digital content through a wide or limited range of sources, both were centers of wide fame and recognition for their ability to blend together the samples so seamlessly, allowing the listener to recognize the original content in a new context. On the other hand, remixing takes a sample and re-presents it within a new work such as Cardi B featuring Bad Bunny and J. Balvin's "I Like It" that notably remixes a sample of Pete Rodriguez's "I Like It Like That (A Mi Me Gusta Asi)". It is this clear use of sampling, mash-up, and remix used in hip-hop that allows for investigation of the artistic creation process.

By investigating hip-hop songs for their use of sampling of content, students become critical researchers of art and the process of creation. Focusing on a critical discussion of authorship and creativity, art students address pop culture icons and themes and locate them within a greater historical context from a personal relationship and identity to the content. Resources such as the website WhoSampled.com provides students with the ability to explore hip-hop artists and songs though multiple search filters, including top artists or songs by popularity, artists who have sampled the most songs, and songs that have been used the most for sampling. Some students may be surprised to discover that the globally trending hip-hop song "Nice for What" by Drake released in 2018 contains at least three samples, including one that is 32 years old from the track "Drag Rap" by The Showboys released in 1986. Using resources such as WhoSampled.com, students can begin to dissect how current artworks connect to previous works within the visual culture theme of hip-hop. Specifically, through the use of sampling and remixing, both hip-hop artists and DJs are directly re-using others' material while simultaneously creating something new.

The cultural value of remixing and sampling can be addressed through the continued critical discussion of authorship and creativity in hip-hop music. The original content being sampled has an aura (Benjamin 1986) that connects the work to certain historical traditions and rituals. When the sampled content is remixed into a new context, philosophical debates can be presented as to how the disconnect from the original content's aura allows for new forms of interpretation, engagement, and expression. One way art educators can emphasize how the thoughtful use of remixing content can support deeper cultural value and meaning with students is through a critical review of the tool Deep Beat (deepbeat.org). Deep Beat is an artificial intelligence (AI) program developed by Malmi et al. (2016) developed with the goal of producing creative and meaningful rap lyrics. While the Deep Beat AI is highly successful in combining lyrics from multiple rap sources (sampling), does the use of sampling in this situation produce a more meaningful interpretation for the listener? How would Deep Beat's use of sampling compare to Jay-Z's use of "It's the Hard-Knock Life" from the Broadway musical *Annie* in his song "Hard Knock Life (Ghetto Anthem)"? Through this lens, the simple act of sampling can be teased out to refine the use of remix that richly promotes cultural meaning and the use of remix that appears more shallow in cultural value.

Such discussions on sampling and remix can then be directed toward the student's own artistic works to move theory into practice. Students' can critique their own works with a particular focus on visual sampling and remix. How does the sampled content present itself in the work and how can/does that use of content influence the viewer? Multiple postmodern art examples and artists have been outlined by Broome (2015) to assist students in exploring artistic remix through appropriation, recontextualization, and layering. Moving beyond such classroom discussions, students can be further directed to reflect on their own practices with digital media and the Internet. Memes, consisting of a digital image from popular culture with text superimposed, typically rely heavily on the sampled visual content and aura to bring about a deeper meaning to the overall meme. Having students construct their own meme can be one easy way to explore sampling and remix in practice with digital media. Furthering this bridge between theory and practice, students have been encouraged to deconstruct digital visual culture media (such as commercials) to their basic texts, liberating them from their previous aura and linear message (Ciampaglia 2012). Critiques of these student-made artworks can further challenge the students' philosophical understandings of authorship and creativity by adding a conversational dimension, asking if their artwork (or others) were made legally.

4. Copyright and Copyleft

Hip-hop's use of sampling brings into question the fundamental values of authorship and creativity from two general legal perspectives that have been described as the *copyright* and the *copyleft*. As the contradicting names suggest, the two are in confrontation of each other bringing radically different perspectives onto the same values of authorship and creativity. The copyright can be summarized as a group who view creative producers as individuals who put in hard work to

develop original content. This perspective can align with Benjamin (1986) idea of "aura", creating the prerequisite for the concept of authenticity. In terms of copyright, Benjamin argues that an original work has presence in time and space. To the copyright, those who remix and sample are lazy recyclers of content and steal intellectual property. On the flip-side, the copyleft can be seen as a group that view those who sample and remix as talented creative individuals that utilize and combine available content to produce new material. An initial leader in the copyleft movement includes the video artist Phil Morton creating his Copy-It-Right, anti-copyright approach to freely sharing media art (Cates 2008). Interestingly, Walter Benjamin's concept of "aura" can also be used to support the copyleft in that the duplication of art allows for the content to be removed from its historical and ritual past to produce new combinations and meanings for the viewer. While the copyright and the copyleft appear to stand in stark contrast to each other, they both make their cases for valuing the creator of content and recognizing him or her for their skill to produce new works. Both groups present their understanding and values to courts to lobby for legal support. What varies between the copyright and copyleft is how each group goes about justifying their positions. By using hip-hop sampling and remixing as a starting discussion point, students can begin to reflect on how they perceive and value legal authorship and creativity in our current era of digital technology saturation.

Hip-hop artists' use of sampling and remixing has created many hit songs but not all of the attention received has been positive. Back in the 1980s and 1990s, when the use of sampling and remixing in music was quickly growing along with digital media, copyright law was in the forefront of arguments related to the legal and illegal use of content. Hip-hop artists were frequently involved in lawsuits involving samples that spanned a wide range, from small looping bass lines to entire sections of a verse or chorus (Runtagh 2016). Early lawsuits like Vanilla Ice's "Ice Ice Baby" sampling of Queen and David Bowie's "Under Pressure" bass line went to court in 1990. Just a year later, De La Soul's "Transmitting Life from Mars" was taken to court for sampling The Turtle's "You Showed Me". Both cases were settled financially out of court for undisclosed millions of dollars and songwriting credits. Other cases such as 2 Live Crew's "Pretty Woman" parody of Roy Orbison's "Oh, Pretty Woman", eventually went to the Supreme Court, which ruled in favor of 2 Live Crew in 1994. Similar issues related to copyright laws are still being debated today. Lawsuits regarding copyrighted music being sampled in the past four years have included the likes of Robin Thicke, Mark Ronson (track composer for Bruno Mars), and Lana Del Rey. Hip-hop culture is much larger than the music alone. Along with the music artists produce are the music videos.

One of the most financially successful video games, *Fortnite*, a major current popular culture trend, draws heavily from hip-hop culture through the unauthorized use of dance moves originating from music videos (Geaghan-Breiner and Fernandez 2018). *Fortnite* itself is a battle royale-styled shooter video game that is free to play but allows for optional in-game purchases that are all cosmetic, altering the players appearance and animations, but providing no clear advantage to game play. Some of the most popular dance moves purchased in *Fortnite* are from hip-hop artists' music videos, such as Snoop Dogg's "Drop It Like It's Hot", 2 Milly's Milly Rock dance performed in "Milly Rock" and Drake's "Look Alive". The Milly Rock dance was first performed and made popular by 2 Milly in 2014 and was appropriated by other hip-hop artists such as Playboi Carti and Kendrick Lamar, paying homage to 2 Milly. When *Fortnite* introduced the dance move to the game it was called "Swipe It", eliminating any recognition of 2 Milly. Other instances can be seen as more insulting, such as the "Shoot" dance performed by Memphis rapper BlockBoy JB in the video for his song "Shoot". Chicago artist, Chance the Rapper, has called out the injustice of *Fortnite* for not properly accrediting the hip-hop artists responsible for the dance moves, or providing any royalties for these optional in-game purchases. Here, copyright law does not address individual dance moves and instead focuses on chorographical work; these moves are not under copyright protection. These situations involving copyright law and hip-hop culture seem to show a consistent conflict of interest and equity regarding authorship and creative production.

The copyright and copyleft camps both agree that the author has value but for different reasons, and the introduction of digital technologies and USA copyright law bring new stresses to these views. In identifying an author, those in support of copyright generally find value in who created the original product, while the copyleft typically finds value in the process, ingenuity, and effort of creating. In the USA, copyright policies were started in 1790 to support and protect creative individuals by allowing them to profit from their creations and to encourage the encouragement of learning. Once profit is made, the copyright ends and the content is shared as an educational benefit to the public allowing for cheaper reproductions (ex: brand name and generic drugs). When this law was initially created, the culture could be described largely as a Read Only (RO) culture (Lessig 2008). In a RO culture, the media is made by a select few professionals and the consumer can only consume the media. If the average American had a vinyl record or a book and wanted to duplicate it, the tools and financial requirements to do so would make it largely impractical. Since the individual, within reason, did not have the ability to copy media, copyright laws were directed largely at other companies who had the ability to make copies. As new digital media were created, the ability to make copies radically changed for the common individual. Digital media, composed of binary 1's and 0's in various formats (audio, images, videos, 3D printed objects, interactive virtual environments, etc.) could be easily copied and shared indefinitely online. This allowed for growth in what is known as a Read Write (RW) culture (Lessig 2008).

A RW culture has individuals who both consume and produce content as part of the digital visual culture. Social media websites are a great example of RW culture, as individuals are consuming content online and then producing content in reaction through the technologies allotted to them (ex: Snapchat via video, Instagram via photos and videos, and Facebook through text, images, and video). As digital technologies expanded so did the understanding of U.S. copyright law to address individual copying of legally protected material. Since copyright law has not traditionally addressed the individual, the idea of free cultural content has become a largely emerging viewpoint aligning with the copyleft. Now a dichotomy has formed between the two camps, the copyright and the copyleft, RO and RW cultures. If a discussion between the two perspectives is to occur, there must be a deeper understanding of core values in the creation process between author and product.

To help society create a resolution between the two combatant views of the copyright and copyleft, art educators can be an essential tool in critically addressing how creativity can be understood and valued. Since the art students of today will become future advocates and voters on these very issues, the experiences in the art classroom hold great potential for influencing this legal conundrum. Art educators have already begun to address the stresses and complexities that copyright law has imposed on the creative process, encouraging students to critically engage with digital media texts (Ciampaglia 2012). How art educators discuss creativity, both directly and indirectly, influences student perceptions. While the views of many hip-hop artists have been compiled by Miller (2010), consensus of how art educators discuss and explore creativity with their students still represents a wide spectrum.

During the dominant time period of discipline-based art education (Greer), creativity was understood as inherent in the individual with strong values of the true original artwork and single author. Correlating with the creation of the Internet and a more prevalent RW culture is the social psychology understanding of creativity presented by Csikszentmihalyi (1997). In this social creativity framework, creativity is a social accolade that is assigned by the experts in a field rather than a divine gift bestowed upon an individual. The new and novel product that is presented to the experts for review in this social psychology understanding does not generate in the individual alone, but is actually a combination from various domains of knowledge that were seen as previously unrelated. Here, a person has skills and abilities within one domain of knowledge that align to the current understanding of their field, and they take a new approach on the same issue through the perspective of another domain of knowledge. Thus, in social psychology's approach to understanding creativity, creativity is the knowledge and ability to know what to select and copy from two or more domains to produce a hybrid (remix) that is expected to have novelty and value within their respective field.

Reducing this perspective to sweeping statements, creativity is the skillful selection and copying of material to produce new knowledge as valued socially by the experts in the field. Discussing these positions in reference to hip-hop alongside the students' own artistic practices will create more informed participants on the values of authorship, creativity, and the copyright politics that address them.

5. Artists as Legal Activist

Dominant discussion of the value of authorship, creativity, and copyright laws are presented in a winner-take-all scenario, with limited middle ground, so that every event is used to argue on the extremes of the debate spectrum. One example of this would be the quote by the philosopher Adorno (1941):

> The beginning of the chorus is replaceable by the beginning of innumerable other choruses. The interrelationship among the elements or the relationship of the elements to the whole would be unaffected. In Beethoven, position is important only in a living relation between a concrete totality and its concrete parts. In popular music, position is absolute. Every detail is substitutable; it serves its function only as a cog in a machine.

While Adorno's statement comes from a time before digital media, his view regarding the modularity of popular music addresses the same values as current discussions revolving around digitally remixing and sampling music. The copyright adopts Adorno's argument to support that creative music should not use similar or copied measures. The copyleft uses the same Adorno argument as a clear recognition that many songs have similar patterns that are modular in nature, thus easier to select and use for remixing purposes. Other examples could be the previously discussed *Grey Album* by Danger Mouse or *Feed the Animals* by Girl Talk. In these examples, the copyright argues that this is a shining example of exploiting others' work and copyright infringement since only mash-up techniques were used. Meanwhile, the copyleft would use these albums as exemplars for the amazing products that could be produced through remixing alongside Deleuze (1994) arguments that everything in existence is just transformed. Since arguments likes these place common ground between a rock and a hard place, teaching students how to critically address the values of authorship and creativity can begin to open up a middle ground for civil discussion regarding creative practices and the politics associated to them.

Hip-hop provides an accessible popular culture reference for addressing the concepts of authorship and creativity in artworks across analog and digital mediums. Popular hip-hop artists through the decades have remixed and sampled from Grandmaster Flash, to The Notorious B.I.G., to Drake. By encouraging students to investigate hip-hop songs and artists from multiple decades using tools such as WhoSampled.com, creative lineages can be identified using sampling and other remix practices. This process can then be duplicated using other mediums, such as Childish Gambino's "This Is America" music video. Here, students can explore multiple instances of visual sampling and remixing, including racial images such as the Minstrel show face. In turn, hip-hop becomes both a primary source for discussion as well as a vehicle to critically discuss the visual arts more generally in regard to authorship and creativity across analog and digital mediums in the art classroom. Furthermore, hip-hop also addresses the conflict between artistic creation and copyright law.

In the United States of America, copyright law applies equally to large corporations and private individuals, resulting in legal issues to professional companies as well as amateur or hobbyist artists. The threatening of legal action and the removal of online content on media outlets like Youtube, and fan pages of popular culture movies and comics, are just a few examples of legal understandings for authorship and creativity targeting amateur artists. Depending on how individuals have grappled with the concepts of authorship and creativity, this may sound reasonable (copyright) or atrocious (copyleft). Since current laws may create villains and pirates out of individual amateur artists simply

developing in a natural creative process, new or revised laws must be made to support creativity on both ends of the spectrum, professional and amateur.

Multiple scholars and authors have made suggestions for either replacing or updating current copyright law to reflect the new digital media era where remixes of music, images, and videos are common practice (Lessig 2008; Berry 2008; McLeod and DiCola 2011; Gunkel 2016). Lessig (2004) has proposed a "free culture" that allows for reasonable property rights that support the creators of the past without inhibiting the innovators of tomorrow. One of the seemingly most enacted options to address the overreach of copyright law is that of the Creative Commons, with currently over 1.1 billion licenses applied to creations. By using the Creative Commons website, creativecommons.org, you answer two simple multiple-choice questions regarding how you want your creation to be shared and if you will allow your creation for commercial uses. After selecting your two responses, a creative commons license is produced that you can apply to your artwork. There is even a visual icon that comes in two forms that you can insert into digital works or onto webpages. While the Creative Commons only addresses issues of creators legally identifying their new works to be shared, other issues pertaining to the use of copyrighted works and current copyright law are still unsettled. In order to address the remaining problems facing both civil-society and the law, students must engage in critical thinking regarding authorship and the creative process regarding digital media to be knowledgeable participants in creating the solution.

6. Conclusions

Digital media has challenged the traditional and modernist understanding of authorship and creativity. This fracture in understanding can clearly be observed in the context of hip-hop, where a transition from analog to digital mediums has paralleled the artistic habits of sampling and remixing of content, further resulting in legal issues due to copyright law. By presenting hip-hop as a common ground for the discussion of authorship, creativity, and copyright law, critical thinking at a meta level can be supported through relatable popular culture content. In this discussion, critical questions can be asked such as: How are creative ideas formed? What makes an author an author? What are the aesthetic qualities of traditional and digital art? How does the law support or impede creative development for both professional and amateur artists? It is through the critical discussion of these questions in the art room that will help produce insightful contributors to the present civil and legal issues regarding creative digital artworks. If civil-society and the law are to support creative endeavors using digital media, then informed discussions relating to the values of authorship and the creative process must take place in the art classroom to produce knowledgeable participants to develop resolutions.

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