

The Identification of a Spectrum of Appropriation in Visual Communication
from originality to plagiarism, and everything in between

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This thesis is dedicated to all the giants in art, design, communication, and music who have laid the groundwork to allow for future generations to stand on their shoulders.

Thank you.

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This thesis identifies a spectrum that contains varying degrees of appropriation—from the elusive concept of originality to the threatening idea of plagiarism—in order to recognize the intentional or inadvertent use of visual language within graphic design. An increasing number of designers are incorporating plagiaristic acts into their work as they blindly consume media, lack a professional methodology, and create services and products without any regard to the original context of the materials they source. Artists who profoundly understand and value borrowing from the past will ultimately create the most effective messages for our current culture.

THE IDENTIFICATION OF A SPECTRUM OF APPROPRIATION IN VISUAL COMMUNICATION *from originality to plagiarism, and everything in between*

“The act of creation is surrounded by a fog of myths. Myths that creativity comes via acts of inspiration, that original creations break the mold, that they’re the products of geniuses, and appear as quickly as electricity can heat a filament. But creativity isn’t magic. It happens by applying ordinary tools of thought to existing materials. And the soil from which we grow our creations is something we scorn and misunderstand even though it gives us so much....”

- Kirby Ferguson
Everything is a Remix Part 3

SETTING THE STAGE

In response to the quote above, this thesis intends to identify a spectrum of appropriation as it pertains to creativity. Familiarity with history and current implications associated with form and style inform a designer’s research and works. By outlining the dynamics of inspiration and its relationship to the creative process and outcomes, the spectrum will identify points ranging from originality to plagiarism. Though designers gain inspiration from their personal histories, a working knowledge of the profession’s history is also essential.

| *Statement of Influence* |

Self-reflection concerning my own creative process developed into an interest and desire to develop this spectrum. I have become aware of the fact that I am constantly inspired by vintage photos, typography, packaging, ephemera, or other visual expressions from previous eras. I grew up touring the Midwest with my parents, stopping in little antique shops and flea markets along the way. While my parents were off on the hunt for the next great piece to fit into the collection, I was entertaining myself while subconsciously studying the visual language of the past. As I grew up, and ultimately pursued my goal of becoming an artist, my eyes opened up to the fact that visual culture is all encompassing and has been an important part of my upbringing.

As I train my artistic eye, I cannot help but rely on a process of creation I have become familiar with for as long as I can remember. It entails studying the visual and cultural languages of past genres. It is because of my background that a certain level of appropriation consistently surfaces in my work. As I further examine the theory and history of graphic design, I notice parallels to other loves of mine—the fine arts, music, and more broadly, phenomena within culture.

IDENTIFYING THE SPECTRUM

| *Creativity, Motivation, & Inspiration* |

When one embarks on a mission to identify a spectrum of creativity, it is vital that the terms being discussed are clearly defined. According to the Merriam-Webster dictionary, inspiration is, “the action or power of moving the intellect or emotion.”¹ Similarly, motivation is defined as a force, stimulus, or influence.² In other words, both acts involve a type of desire or stimulation, and they both cause influence. Individuals may also have unique ways of finding motivation or inspiration, which can be a fascinating active or passive process. What he or she takes away from that motivation or inspiration seeking practice is unquestionably influential during the creation process—whether or not the artist is aware, and regardless of the direct visual or auditory apparition on the final outcome.

It is important that designers first understand themselves as artists and creators before entering the professional world. How can one possibly help others, or provide services to culture, if he or she does not know the first thing about their own creative soil? By identifying a professional creative methodology, designers can put themselves in a more credible position in the world. The smartest and most successful

¹ <http://www.merriam-webster.com/dictionary/inspiration>

² <http://www.merriam-webster.com/dictionary/motivation>

designers have a profound understanding of themselves, the history, and atmosphere surrounding them, which make it possible for them to convey the appropriate information.

While challenging me, a former professor once asked, “What is culture?” As my difficulty in answering was paining him, he replied, “Systems for existence.” It is hard to convince people to change their minds or behavior, but when one truly understands culture, or systems for existence, and disseminates the correct form of information, the resulting creations speak to people in languages they already know. It is essential to acknowledge the fact that as creators, we are providing a service to people. You must first know who you are, secondly, for whom you are creating, and thirdly, what kind of message you want to convey. That is the groundwork, and this is where our unique creative processes come into play.

| **Originality** |

The concept of originality has been a debatable topic in music and art criticism because of the fact that masters consistently train artists through acts of repetition and copying. After skills are honed through training (whether it be formal or informal), the students then become the masters, and break out into the world to make use of what they have learned, with the aim to be as “original” as possible to one’s own artistic voice. Since the root word of originality is “origin,” which suggests that something was born, or originated, from something else. Within a critical context, however, originality suggests a lack of origin. According to current copyright laws, the test for originality lies in “artistic merit,” and questioning whether or not the work is the result of independent effort and judgment. It is also interesting to note that there is no legislative definition of originality.³ In today’s world, with the continual ambush of technology, originality is becoming more closely linked to ownership. The copyright and patent acts of 1790 were enacted to encourage learning and progress

³ Alfrey, page 2.

in the arts, so that creators could enter markets and make profits without having to worry about someone else stealing from them; however, those laws have been used and abused through countless examples of opportunistic litigation and artists who push the legal boundaries of their creations.⁴

Arguments about originality have been documented and analyzed in a number of fields and practices. Prolific designer Steven Heller has written a number of books, articles, and electronic publications about the history and theory behind graphic design. In one of his earlier books, *Borrowed Design*, Heller emphasizes the importance of knowing the history of visual communication, and argues that the significance of graphic design lies in the fusion of historical precedence, ideas, and inspiration in creating messages. He also makes clear that there are varying degrees of borrowing in visual communication, and interestingly remarks in his introduction to the book: "... to what degree is borrowing inspired by the conscious or unconscious influence of someone else's work, and to what degree is it an act of plagiarism? The answers are not clear-cut, especially in this postmodern period when a prodigious amount of borrowing, appropriation, or sampling (to borrow a phrase from the music industry) is sanctioned by those who believe in the free exchange of ideas. At the same time, this renewed emphasis on borrowing has resulted in a greater concern about the preservation and acknowledgment of an individual's concept of style."⁵ Heller's emphasis on the importance of learning from the past is integral to gaining insight or inspiration. If one cannot be original, then he or she can build on the past by standing on the shoulders of giants. In order to stand on them, one must climb up to them, and that is a process that requires examination and intense appreciation.

Heller wrote this book in 1993 during a time when computer technology was pushing the advancement of the graphic arts. With the onslaught of today's hybrid media, new opportunities will always be presenting themselves, and now, decades later, technology is still allowing for additional degrees of originality, visual

⁴ Ferguson, part 4.

⁵ Heller and Lasky, page viii.

influence, mimicry, and even stealing. It has become even more vital that design educators and creators acknowledge this ever-changing metamorphosis in creativity. That being said, the concept of originality is different for everyone. As the creators of visual communications designers must understand the importance, necessity, and appropriateness of each new technology, and design accordingly.

| *Influence* |

Influence can be a spiritual, aesthetic, or methodological process, and it manifests itself in varying degrees—ranging from inaccessible, or veiled, to intentional, or obvious. Kirby Ferguson states, “Creation requires influence.”⁶ Each and every artist’s creative methodology is different—that is for certain—but the beginning stages of creation involve some form of motivation, inspiration, and/or influence. Because these processes are diverse for every artist or situation, they can be interchangeable or seemingly non-existent.

In the book *The Anatomy of Design*, authors Steven Heller and Mirko Ilic attempt to reveal influences for forty-nine different pieces of graphic design.⁷ Although some of the examples are more familiar than others, the authors dissect these pieces according to design principles and processes in order to reveal certain tendencies and draw commentaries on contemporary artifacts. Occasionally, the highlighted designers confirmed the authors’ assertions, however, they point out that nearly all artists do not know the derivation of their work. As quoted from the book, “Designers are conceptual pack rats. They crowd as much raw material into their brains as possible, and then draw upon it to create their work.” To the majority of artists, the act of creation is an inherent desire, and influences—big and small—persistently envelop an individual. This could be the reason why some do not consider the practices of inspiration or motivation (that “raw material” Heller and Ilic are referring to) while they attempt to recontextualize the lives of their viewers. It is also interesting to note that

⁶ Ferguson, part 2.

⁷ Heller and Ilic, introduction (no pagination).

there are times when this “raw material”—products of others’ creations—makes its way into a designer’s work. For this reason, it is important to acknowledge influence in the creative workflow. Snapping photos, or keeping a journal or sketchbook of visual inspiration helps artists realize where certain influences are coming from, and process documentation is an important part of design education. It may be more difficult for a musician to capture initial influences, but as a creator, one must recognize in some way the original source of material that he or she finds inspiring.

In an article entitled “Designing Under the Influence,” educator, designer, and writer Michael Bierut describes an interview with a young graduate. As he was reviewing her portfolio, a particularly enticing piece caught his eye. It was a CD packaging program containing visual language that used “... Futura Bold Italic, knocked out in white in bright red bands, set on top of black and white halftones.” He asked her why she was going for the “... Barbara Kruger kind of thing,” in which she replied, “Who’s Barbara Kruger?” Speechless, Bierut walks us through his reaction in this article:

... I started working out the possibilities. One: My twenty-three year old interviewee had never actually seen any of Barbara Kruger's work and had simply, by coincidence, decided to use the same typeface, color palette and combinational strategy as the renowned artist. Two: One of her instructors, seeing the direction her work was taking, steered her, unknowingly or knowingly, in the direction of Kruger's work. Three: She was just plain lying. And, finally, four: Kruger's work, after have been so well established for so many years, has simply become part of the atmosphere, inhaled by legions of artists, typographers, and design students everywhere, and exhaled, occasionally, as a piece of work that looks something like something Barbara Kruger would do.

Similarly, while attending graduate school here at the Savannah College of Art and Design, a classmate turned in a project with black and white text, set on top of black and white photos, without being conscious of the history behind its style—which was certainly discussed during the critique. Knowing that the classmate’s

background is in architecture, one would only assume, like Bierut describes, that Kruger's work, becoming so prominent in our culture, has somehow been absorbed into these designer's minds, only to later, unknowingly, reveal itself during a time when it's style seemed fitting. Barbara Kruger is one of the most influential conceptual designers of contemporary culture. In a thorough investigation of the art of propaganda, one can see where Kruger gains her color palette and inspiration. Kruger, unlike these young designers, is extremely intentional with the use of her iconic approach. Her style has been wisely used and widely abused. Without acknowledgement of the original context associated with a certain design or motif, it is uncertain whether or not a designer is communicating the intended message. As a designer, it is critical to research in order to uncover and understand the past, before designing for the present.

One of countless examples of how an artist's influences can be seen (or heard) is through the music of the legendary Bob Dylan. In his 2001 album entitled, 'Love and Theft,' Dylan quotes several lines right out of a book written by Dr. Junichi Saga, called 'Confessions of a Yakuza,' which Dylan was reading at the time he was writing the album.⁸ Due to Dylan's popularity, his fans quickly noticed the parallels, and Dr. Saga's book sales jumped. Dylan has not openly admitted to being influenced by the book, but the fact that certain phrases were used almost verbatim is most convincing. Dylan's music is said to, "...draw on the blues, Appalachian songs, Tin Pan Alley, rockabilly, gospel, ragtime, and more."⁹ These music genres are Dylan's inspirations. Even the works of folk singer Woody Guthrie have appeared in songs by Dylan. Guthrie himself is infamous for being influenced by tunes written by the Carter family¹⁰. Dylan may or may not acknowledge his inspirations and influences, but when numerous people notice parallels, there is bound to be a discussion about it. Was Dylan simply reacting to the way Dr. Saga's texts had moved him? An artist's inspiration or influence can turn into a direct or indirect reflection of how that stimulus has sparked a reaction. One could speculate that because Dylan took from a book, and wrote a song, that the different mediums carry different messages. But then

⁸ Pareles

⁹ Pareles

¹⁰ Pareles

again, they are both texts—one is longer, and the other is paired with a tune. An article featured in the *New York Times* stated, “The hoopla over ‘Love and Theft’ and ‘Confessions of a Yakuza’ is a symptom of a growing misunderstanding about culture’s ownership and evolution, a misunderstanding that has accelerated as humanity’s oral tradition migrates to the internet. Ideas aren’t meant to be carved in stone and left inviolate; they’re meant to stimulate the next idea and the next.”¹¹ This article contributes to this conversation because the creation of design, like that of music, is commonly misunderstood—especially as we progress to a more digital environment. Dylan may have borrowed a few lines from a book, but he in no way has affected the integrity of the original work. He is not pretending that history or the book does not exist—he is adding to the conversation. While it is highly unlikely that most designers will achieve the rock star status of Dylan (or Barbara Kruger, for that matter), whether it be a piece of visual communication or a song, if someone notices questionable influences in an artist’s work—be them an amateur or rock star—there better be a good explanation for it.

We live in an increasingly commercially driven culture where sensory stimuli constantly surround us, forcing us to relentlessly consume media. Since influence can take place consciously or subconsciously, it is an important responsibility of the artist to recognize the value of his or her perception of motivation, inspiration, and influence in a body of work, as well as establish a process of documentation. Because of this constant contact of influence, it is easy to draw the conclusion that less and less of the media that surround us come from original material and were not magically brought into existence. It is therefore pertinent to make clear that there are no definitive beginnings and endings of the different points on the spectrum. But exactly how much history must one artist be required to know before putting a pencil to paper?

¹¹ Pareles

| **Appropriation** |

Although Marcel Duchamp created his humorous version of the Mona Lisa as early as 1919¹², the real roots of appropriation spawned in the 1960s with Pop Art—most notably seen in the work of Roy Lichtenstein’s comic-like art, and Andy Warhol’s iconic soup cans. Art critic and historian Hal Foster wrote in a recent *ArtNews* article, “For the most part... Pop had to do with the collision between high and low, painting and Disney characters and comic book figures... And the original charge of their work was part of a general critique of originality.”¹³ Artists continued to push the boundaries of this shift in the perception of originality, while also adding layers to the challenges of authorship, ownership, context, and narrative. Appropriation is a powerful strategy used among countless artists and movements in reshaping, commenting, or exploiting a message or meaning. Its power lies in the ability to take something of the past and shift its context in order to build a different narrative. According to the Tate Museum, appropriation is a term that, “refers to the more or less direct taking over into a work of art... Appropriation art raises questions of originality, authenticity and authorship, and belongs to the long modernist tradition of art that questions the nature or definition of art itself.”¹⁴ Appropriated art can compose powerful narratives and have multiple reasons for being employed. The act of “taking over” something, however, is a controversial subject that has been argued about in design and musical history alike.

Because of its attractiveness, appropriation art arrived in full force during the late 1970s and early 1980s. During this time, the works of artists like Barbara Kruger, Sherrie Levine, Paula Scher, and Richard Prince began to gain popularity. Even though technology started progressing at a rapid pace, these artists emerged at a time when producing art meant that acts of physical labor were most likely involved. In a recent *ArtNews* article about appropriation, curator Sara Krajewski states, “... in the past artists had to... either engrave a plate

¹² Shearer

¹³ Pollack, page 79.

¹⁴ <http://www.tate.org.uk/collections/glossary/definition.jsp?entryId=23>

or paint a canvas or make a collage or pick up a camera to appropriate, whereas today images can simply be downloaded or scanned.”¹⁵ While the work of each of the above artists has a unique style, it also involves aspects of photography. Photography in itself has seen major advances in the past few decades as it has moved from film to digital, and those advances have helped put it at the center of many debates over authorship and ownership. When one looks at an artist like Barbara Kruger, who commonly uses *text* paired with her images, one can see where technology has allowed for greater ease in her artistic process that was unachievable before. As visual culture continued to develop in the 1990s and 2000s, computers and advanced media evolved and made the art of appropriation more accessible, effortless, and abundant—thus encouraging artists to enter into its realm. The concept of appropriation has now flourished into a beast that can hardly be contained, and even puts a sour taste in the mouths of most conceptual artists—as its power is increasingly used and abused.

Appropriation has been a tactic used by numerous musicians as well. For example, in the 1930s the American folk singer Woody Guthrie, most known for his political activism, used appropriation to comment on consumer habits, labor laws, religion, and cultural repression by slightly changing and adapting lyrics and melodies from songs passed on by oral tradition. By speaking to his audience in a language they already knew, he was able to create his own narrative by shifting the context of his lyrics. If Guthrie was around making tunes today, his work may be quite controversial. Because of the threat of litigation and the nature of a work of art, creators are urged to pay licensing and copyright fees. In fact, today, appropriation can come at a cost—even Andy Warhol paid to use images. Unless an image or text is in the public domain—meaning it is free from copyright protection, and for anyone’s use—one must obtain copyright permission in order to apply the derivative work.

In order to fully grasp the power and suitable use of appropriation, one could examine the visual language and techniques of artist/designer Barbara Kruger. Her iconic work employs the use of appropriated black-and-

¹⁵ Pollack, page 79.

white imagery from sources like popular newspapers and *LIFE* magazine, contrasted with text set in red and white Futura Bold Oblique—a style as influential as it is powerful.¹⁶ Because of her roots in advertising, Kruger understood the power of manipulation, and used this power to compose messages that were a complete opposite to what she was taught in the industry. Her messages make the viewer stop, reflect, question, analyze—not blindly consume. Kruger’s technique of mixing appropriated imagery, bold text, and startling messages has been applied to a number of mediums—ranging from public to gallery art—making it easily accessible and influential to artists ranging from amateurs to professionals, such as Jenny Holzer, Sherrie Levine, and Shepard Fairey.¹⁷ Even though her graphic style has been so influential, the use of a black, white, and red color palette was not something originated by Kruger. It can be traced back to visual communication found in *LIFE* magazine, Russian Constructivism, the Nazi regime, and much more. In fact, the reason Kruger is so successful with the use of her style is because she profoundly understands the effects of propaganda’s architecture and semiotics, along with the psychology of advertising, and is then able to use those techniques to convey her own messages. Shepard Fairey, admitting to being strongly influenced by her work, writes, “In the sense that Kruger’s work utilizes the look of the advertising it critiques, the art is a democratic counterpart to the most pervasive and familiar propaganda in Western culture and communication.”¹⁸ She not only completely comprehends the visual language with which she speaks, but she understands everything about the consumer culture that she is targeting. Her appropriated imagery welcomes us in to the work, where we are met with her harshly contrasting, easily accessible messages of social, cultural, or political propositions. Commonly labeled a feminist, Kruger’s most recognizable works pair images of idealized women with bold statements in an effort to subvert mass media and make the viewer question the role of the woman in American society today.

¹⁶ Gomez-Palacio and Vit, page 12.

¹⁷ Kamimura, pages 40-43.

¹⁸ Revelli, page 49.

| *Remixing, Transforming, Combining : Examining Sampling & the Collage* |

Sampling and collage are two closely related terms. Sampling is typically known to exist in the musical world, and collage, on the other hand, has been used in art and music construction equally. In a strictly evolutionary assessment of the term, collage gets its roots from a French word for sticking or gluing.¹⁹ After being well established within the context of art, collage now refers to taking bits and pieces of existing forms or objects and meshing them together to form its own highly abstract work. In music, sampling is often easier to identify, even though it usually involves some type of manipulation or transformation on the part of the sampler—and rarely distorted to the point of little or no recognizability. Digital sampling in music allows for artists to effortlessly take a previously recorded sound sample and reincorporate it into their own work.²⁰

Some of the earliest utilization of appropriation in art was by the Dadas in Zurich during the 1910s and 1920s. It was used as a powerful medium for artists to express their views on the state of the world during the First World War. Artists such as Tristan Tzara and Kurt Schwitters cut words out of newspaper articles and repositioned them according to chance, which in turn created ludicrous commentary on war propaganda.²¹ When these reused newspaper clippings were bound together, they became known as collages. These collages were remixes of the advertisements and news reporting of the time, and are also prime examples of how messages can be transformed—either literally, or metaphorically. During the same period, artists such as John Hartfield and George Grosz were experimenting with a similar process known as photomontage, which involves dissecting photographs and remixing them into a single composition.

¹⁹ Bell, page 3.

²⁰ Lindenbaum, introduction (page 1).

²¹ McLeod and Kuenzli, page 2.

As stated earlier, technology has been the driving force behind the advancement of experimentation in the arts, and appropriation has been an important by-product. Author Kembrew McLeod, in his book *Cutting Across Media*, makes the argument that the invention of the photocopier did for the visual arts what the introduction of tape technology did for the musical arts. While both the tape recorder and photocopier emerged in the same era, the photocopier, designed by the Xerox Corporation (originally for military purposes) became commercially available after the Second World War.²² In an interview conducted by McLeod with sound and visual artist Lloyd Dunn,²³ Dunn states the following: “The Hungarian and graphic designer László Moholy-Nagy was a great champion for using devices of reproduction for productive ends. And so when you turn a photocopier into an art-making tool, basically you’re détournant a business machine into doing something that could be very easily anticapitalist or antibusiness—or even revolutionary—in the right hands.” What Dunn is saying is that through this new technology of photocopying, the ideas of sampling, collaging, or remixing allowed visual artists with the right combination of brains, guts, and motivation the freedom to push the boundaries of creativity to levels they had never been reached before. This is a trend that has been happening with the introduction of nearly every new technology—regardless of the creative outcome—and has continued to be stretched in the field of graphic design, most notably with the introduction of the computer (and software) as a creative tool.

The development of the tape recorder is largely responsible for a number of cultural and technological advancements pertaining to collage and the remix. It is of McLeod’s opinion that its invention exemplifies characteristics now associated with digital media.²⁴ In *Cutting Across Media*, he explains that, “magnetic tape technologies greatly lessened the cost of reproducing, copying, and circulating sound recordings, a

²² McLeod and Kuenzli, page 7.

²³ It may be interesting to note that both men mentioned here, McLeod and Dunn, have strong ties to Iowa City, Iowa, the home of the University of Iowa, my alma mater. McLeod is a professor of Communications, and a widely known and respected expert in the area. Dunn was a member of a sound collage group that became known for their sampling of The Beatles, and was also an artist at the forefront of photocopying experimentation.

²⁴ McLeod and Kuenzli, page 6.

breakthrough that is also ascribed to MP3s and other digital media.” Of course, the advent of computer software, the Internet, and other technologies have allowed for almost instantaneous media consumption, whereas when tapes were first introduced, people relied on such things as physical materials for creation and mail for circulation. Although there have been tremendous advances in the field, the tape was a medium that allowed artists the freedom to edit and reorganize sound in ways that were not previously possible—much like computer software in the field of visual communication. McLeod tells the story of a French engineer and radio announcer named Pierre Schaeffer who, after the Second World War, coined a musical phrase known as *musique concrète*. His auditory collage experimentations with tape-recorded sounds, taking place after Schwitters’ constructions of visual collage, helped stimulate avant-garde fascinations with tape technologies.²⁵

Because of the ease in process, digital sampling in music has been growing exponentially since its birth from hip-hop music in the 1980s.²⁶ One emerging musician in contemporary electronic music is Derek Vincent Smith, commonly known as Pretty Lights. In an interview about his music creation process he states, “The way I sample, I refer to it as sample collaging... I’m using small pieces of ten to twenty different sources, putting them together, manipulating them and massaging them into a point where it sounds like they were meant to be that way.” By combining the ordinary tools of music samples, a laptop, software, and a couple of turntables, Smith approaches the musical creation process in a unique manner. He creates collages that are auditory interpretations of a common visual form. In that respect, his process is nothing new, but the outcomes sound completely original.

In his short movie series, Kirby Ferguson discusses the idea of remixing in great lengths, and defines the concept as combining or editing existing materials in order to produce something new. He explains the standard elements of remixing as “appropriating, transforming and subverting.”²⁷ Ferguson intends to define

²⁵ McLeod and Kuenzli, page 6.

²⁶ NPR.

²⁷ Ferguson, part 2.

subversion as a less aggressive term used to explain what happens when creators take an original message and turn it on itself—much like what Barbara Kruger does with her appropriated feminine imagery. With the constant risk of copyright infringement today, certain artists use subversion in order to create an oppositional argument about an initial piece of media. Whereas appropriation can communicate a diverse range of meanings, subversion communicates a conflicting message. As the prime example of the concept of remixing, Ferguson states that Hollywood's greatest talent is in the taking of something old and making it new. One of the most classic movies of all time, the 1939 film *The Wizard of Oz* is based off of a series of books by author Frank L. Baum called *The Wonderful Wizard of Oz*. Director Victor Fleming appropriated Baum's storylines (published in the year 1900) and illustrations from the original books, then completely transformed their delivery—thus their meanings. The idea of humble little Dorothy from Kansas seems to be slightly subverted behind the disguise of the remixed Technicolor dream world known as the Land of Oz. To further quantify his claims about the film industry, Ferguson states, "Of the ten highest grossing films per year from the last ten years, seventy-four out of one hundred are either sequels, remakes of earlier films, or adaptations of comic books, video games, books, and so on." No matter what the media or field, hints of sampling, collage, or remixing enter our lives daily. Had Fleming had the vision to recreate *The Wonderful Wizard of Oz* today, he would have had a rigorous journey into the copyright law system in order to produce the movie. Although the original stories were copy written and legally used in the film, the advent of new technologies (especially the Internet and its counterparts) have created a whirlwind of controversy surrounding intellectual property laws today. It is apparent that the roots of sampling, collage, and remixing (like that of appropriation) challenge the structure of the current copyright laws.

One of the foremost writers on the remix culture and its copyright issues is Harvard professor Lawrence Lessig, who is known for providing countless examples of the art of the remix, and its pertinence in our creative culture today. According to Lessig, the remix is an original expression, and originality is relative to what people are doing at a particular time in culture. He not only stands for the allowance of remix culture, but he

encourages it.²⁸ As Lessig points out, the remix is extremely hard to accomplish, as it requires great insight into the original context of the thing being remixed. In his opinion, when remixes are created with an intentional reference to the original, they have the, “power to teach people about how to learn about what their culture is about.” Due to its nature, the remix has the power to reach an array of audiences at the same time. While using the metaphor of writing, Lessig attempted to define the essence of a remix by stating, “Good essays quote extensively,” and argued that the best essay would be a string of quotes, “...bound in a way that showed something interesting about your understanding of the underlying work... Our culture embeds the idea that, in the context of writing, you have an unquestioned freedom, liberty, to quote at will... But when you shift to music or video [or visual communication], all the norms are reversed.” So, by attempting to define the remix, Lessig retains that the creator must acknowledge and understand the original source, and that, secondly, certain industries, like music, writing, and design, need to have an awakening re-examination of the laws that are in effect today against the borrowing of material.

| **Homage & Parody** |

Homage and parody are similar in the way that they both pay tribute to a single source, and more importantly, involve a profound understanding of the derivative material. Steven Heller places more emphasis on these points in his book *Borrowed Design*, but they are important to note here, as they both fall on the spectrum of appropriation. Whereas parody is seen as a form of entertainment, homage is about honoring a certain thing in order to construct one’s identity around that thing—most often this is done within a religious or cultural context. This is not to say that paying homage is not entertaining. Cover bands in music, for example, pay homage to the artists they are copying, just without ridicule. Conceptual artist Sherrie Levine challenges the

²⁸ I learned of his views while attending a lecture of his in Savannah. I asked him the question, “Do you think originality is possible to achieve in today’s world, and if so, do you think the remix is original?” Without any hesitation, he responded, “Yes, I absolutely think the remix is original.”

notions of homage, parody, originality, influence, and plagiarism by repainting or photographing other artist's work. She has produced series of works with titles like "After Walker Evans," "After van Gogh," "After Edward Weston," and so on, which are reproductions of works by the artists in the titles. She has even recontextualized a famous Marcel Duchamp sculpture, in which Duchamp took a men's urinal, placed it in a gallery setting, and titled it "Fountain." Years later Levine, in a parodist fashion, plated a urinal in gold and renamed it "Fountain (Buddha)." By copying Duchamp, she added to the conversation by again questioning originality, as well as her own artistic influence and inspiration.

Heller states, "Parody is a form of ridicule through which a target's identifying features are deliberately distorted to achieve comic effect. The more absurd the representation (within the realm of believability) the more effective the parody. But in all applications, including graphic design, a parody must be so true to the target's distinguishing characteristics that no confusion can exist about what is being ridiculed."²⁹ Because of its popularity in the entertainment industry, one sees parody most habitually in pop culture—from the television episodes of South Park, to the songs of Weird Al Yankovich, and even the news organization, *The Onion*. South Park creates graphic depictions and retains the names of the people they are poking fun at. Weird Al will keep a song's melody and subvert the lyrics, while keeping the original message in mind. One of his most famous songs, "Amish Paradise," was written after rapper Coolio's "Gangster's Paradise," and hilariously juxtaposes the lives of the Amish to that of gangsters on the streets.

The light-heartedness of parody, however, is not as easy to achieve as it may seem. Heller warns, "One should not, moreover, confuse mimicry with parody. Good parody requires intelligence and familiarity with the target; mimicry demands only technical proficiency."³⁰

²⁹ Heller and Lasky, page 54.

³⁰ Heller and Lasky, page 64.

| *Mimicry* |

Copying, or mimicry, refers to the direct taking of a sample of visual or auditory composition, involves little to no kind of distortion, and no credit is given to authors of the copied work. Because of these characteristics, copying commonly presents itself in courtroom battles over trademark infringement or plagiarism. In the musical world there have been examples of unintentional copying that have still resulted in violations in court.³¹ Finding proof of infringement relies on closely examining the process one takes in creating a work, and more importantly, the intent of the artist. However, if an artist intends to bring his or her own artistic voice to the copied material, and uniquely manipulates that material, then it could be argued that the end result would not be infringing upon any creative laws. Every situation, however, is intrinsically different, as the due process of law can be a long, and complicating process. Contradictory to the negative aspects of copying is the fact that human beings (especially artists) have been learning through apprenticeship, or direct copying, for ages. It is a fundamental part of the learning and creation processes. Copying is such a powerful tool, that artists must be reminded of its potential and danger at the same time.

Marcus Boon, professor at York University in Toronto and author of the book *In Praise of Copying*, introduces his views by discussing his observations of copying as an integral part of the human existence through his experiences as an American citizen, practitioner of Buddhism, and professor of English. He states:

This book grew out of the observation that copying is pervasive in contemporary culture, yet at the same time subject to laws, restrictions, and attitudes that suggest that it is wrong, and shouldn't be happening. On the other hand, many of the most visible aspects of contemporary culture—the art of Takashi Murakami or Elizabeth Peyton, electronic music ranging from hip-hop and techno to dubstep and mashups, BitTorrent and other digital networks of distribution, software tools like Google Earth or Photoshop, social networking sites like Facebook and Twitter, movies like Borat or

³¹ Alfrey, page 2.

Slumdog Millionaire (*all no doubt hopelessly out of date by the time you read this*)—rely explicitly on something we call ‘copying.’³²

Boon argues that there is not one single act of human desire that does not involve mimicry. In an effort to address moral and ethical “problems” of mimicry, he states that the real problem is when people lack context for understanding what it means to copy and what its uses are for.³³ Therefore, it is perfectly safe for an artist to copy depending on his or her knowledge or regard for the context of the copy, as well as the intentions and applications of distortion and transformation.

Kirby Ferguson also discusses copying in *Everything is a Remix*, and essentially agrees with Boon by stating that humans learn through copying and repetition.³⁴ Ferguson outlines the basic counterparts of learning as copy, transform, and combine, and compares these elements to the science of evolution and genealogy. He then highlights the ideas behind memes, or “an idea, belief or belief system, or pattern of behavior that spreads throughout a culture either vertically by cultural inheritance (as by parents to children) or horizontally by cultural acquisition (as by peers, information media, and entertainment media).”³⁵ By showing his elements of creativity across science and sociology, Ferguson also makes a highly relatable comparison that Steve Jobs and the other creators of the original Macintosh copied Xerox’s Star computer and aimed to combine the personal computer with the household appliance—an innovation that forever changed the music industry, and subsequently, the means for creating visual communications.

Although copying has been taught in the classroom since we were children learning to write on a chalkboard, teaching *about* it and its creative implications is something fairly uncommon. Schools like Harvard and Columbia offer classes pertaining to intellectual property rights through the communications and law practices

³² Boon, page 4.

³³ Boon, page 6.

³⁴ Ferguson, part 3.

³⁵ <http://www.urbandictionary.com/define.php?term=meme>

classrooms, but the School of Visual Arts takes precedence in informing their students about the pressing issues of copyright law today. Recently, an article was featured by the American Institute of Graphic Arts (AIGA) and written by Frank Martinez, a professor at SVA, that advises designers on how to avoid being copied—not only for their own sake, but also for the sake of their client.³⁶ Because design is a commercially based profession, when a client reaches out to a designer, they put demands and restraints on us that we must meet. A client is approaching a designer because they have an opportunity that is uniquely theirs and demands a unique solution. If everything were just copied, without any form of independent thought, then every logo and brand would look the same. Furthermore, if a designer is hired by a client, then gets caught for copyright infringement, the company is liable. As Martinez notes, “... copyright law is constructed to permit the free exchange of ideas, and in the case of design and the visual arts ideation is often expressed in a ‘style.’” When an artist has knowledge of style and the history of graphic communication, he or she is less likely to blatantly imitate. Most designers would agree that when they work hard to create something, like an identity for a company, the last thing they want is someone to steal their idea—which would lessen the value of that company’s design. Although this article’s main objective is to counsel designers on how to prevent having their work stolen—by registering for a copyright for your work, keeping records of your process, and educating your clients—the most important point is that it is bringing to light a very urgent issue in our profession that needs to be addressed more often, especially in our classrooms.

| ***Plagiarism & Art in the Courtroom*** |

Plagiarism is a powerful word often associated with negative connotations and law breaking. Simply put, plagiarism is the use of another’s media as if it was your own.³⁷ Although originality and plagiarism are at

³⁶ Martinez.

³⁷ http://www.plagiarism.org/plag_article_plagiarism_faq.html

opposing ends of the spectrum, they are surely not opposites. Because of the onslaught of technology and hybrid media, tragedies such as opportunistic litigation (or the acts of “suing to get rich”), as well as the occasional laziness of an artist, creative products have been all too common a topic in court battles today.³⁸

The original intents of the patent and copyright laws seem to get lost in the mix—pun intended.

In the year 1790 the Copyright and Patent Acts were established in the United States, although in as early as 1710, the first copyright law, The Statute of Anne, was introduced in the United Kingdom. These laws were made to protect “original forms of expression”³⁹ and “for the encouragement of learning.”⁴⁰ Intended for writing at first, these laws have expanded to protect other forms of media. Patents, on the other hand, are for inventions—like industrial designs, plants, surgical procedures, and software—and its act was established “to promote the progress of useful arts.”⁴¹ Lastly, trademark laws protect names and symbols. The Lanham Act (or trademark act) is the youngest of them all, signed by Harry Truman in 1946, and it pertains most to the field of graphic design, as that is the domain where company concepts and logos are typically created.⁴² Although it is expected that one discuss famous trademark infringement court cases, the fact that patent laws have shifted from protecting physical objects to now protecting things in the virtual realm, is most interesting to note. Ferguson points out in the final part of his series that 62% of all current patent lawsuits are over software.⁴³ The computer is one of the most common tools associated with graphic designers and electronic musicians today, because as it creates a platform for software to run on, the advancing technology in software enables designers and musicians to copy, paste, rearrange, remix, appropriate, and ultimately plagiarize materials. The Internet is not only becoming a main distribution channel for the media, but also a main source of inspiration.

³⁸ Johnston, page 1.

³⁹ Fisher.

⁴⁰ Ferguson, part 4.

⁴¹ Ferguson, part 4.

⁴² Fisher.

⁴³ Ferguson, part 4.

This is problematic because the Internet has no filter and lets its users blindly consume, as Andrew Keen warns us in his book *The Cult of the Amateur*. Until there is a hard re-examination of the current copyright laws, there will always be artists that utilize computer technology in order to steal media.

There is one loophole to getting around copyright, patent, or trademark infringement laws, and that is the Fair Use clause. As defined by the federal government, “reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research.”⁴⁴ Visual and musical artists are continually finding ways to hide under the umbrella of Fair Use, as they push the limits of their creative processes and outcomes. Famous court battles in the music industry have made the fair use clause most popular. One legendary case involves the band U2 and their lawsuit against the sound collage group Negativland.⁴⁵ The sampled song in question : “I Still Haven’t Found What I’m Looking For.” This case is not only known as pivotal in copyright infringement law, but is also seen as a prime example of what has become known as “opportunistic litigation,” where big companies or organizations flex their muscles and sue smaller companies or artists who narrowly violate the laws. The lawsuit spiked a wave of backlash and vigorous arguing on the part of musicians to intervene in the current legal systems. In an interesting quote, Negativland discusses the role of computer software in the creation process :

The home computer is the ultimate collage and appropriation box, and every computer user in the world now knows and understands the term ‘cut and paste.’ But amazingly, just as this cut-and-paste style of thinking began to spread far and wide beyond the realm of fine art (even becoming part of the public’s new attitude toward an increasingly complex mass of information that they must navigate), this process also began to provoke lawsuits.⁴⁶

⁴⁴ <http://www.copyright.gov/fls/fl102.html>

⁴⁵ McLeod and Kuenzli, page 13.

⁴⁶ McLeod and Kuenzli, page 13.

The policing of plagiaristic acts are nothing new, but is beginning to surface more frequently. Courtroom battles have taken place over music and film for longer than the arts. Only recently have publications like the New York Times, NPR, and *ArtNews*, been writing about this phenomenon in the art world.⁴⁷ Because of the advancements in technology, and like pieces to a puzzle, visual materials are being disseminated at a rapid pace, only to be put together by artists who are trying to question the ideas of authorship and ownership, or by those who just do not know any better. One long, prominent case still being investigated today is between the artist Richard Prince, who has a career constructed around appropriated artistry since the 1970s, and photographer Patrick Cariou. In March of 2011, a federal court found Prince guilty of stealing photographs out of a book that Cariou produced about the Rastafarian culture⁴⁸. When Prince did this, it was pre-internet. Plagiarism in the arts has not happened *because of* the dawn of the internet age—it is only more prevalent now. And Prince's piece sold for millions of dollars—something that is investigated in litigation as the courts look at whether or not the original work's author has been affected financially. Since the ruling, Prince has appealed the decision, claiming that his borrowing falls under the fair use clause. The battle, ongoing as this is written, is a pivotal one in the world of copyright infringement due to the fact that it has brought key copyright issues out into the public eye and into the open. One can only hope that the lawsuit also prompts artists to take a more critical look into their own creative processes and outcomes.

Most importantly, copyright laws were enacted in order to promote the broadcasting of knowledge and creative expression—not restrain it. Since the convergence of advanced technology, the accessibility of an art form, and an artist's urge to create is being mixed with a disregard for proper methodology and acknowledgment of context, the outcome of copyright violation seems unavoidable.

⁴⁷ The March 2012 issue of *ArtNews* had an article entitled Copy Rights, where Prince's case was discussed, along with a plethora of other artists who work in his arena.

⁴⁸ Kennedy.

CLOSING THE CURTAINS

Acknowledgement of the spectrum of appropriation within the minds of artists, communicators, educators, and musicians, as well as the environments in which they learn will produce more informed, concrete, and useful creations. There needs to be attention to individual processes as creative opportunities are approached and built upon from past experiences, influences, and the history of visual culture. It is imperative that designers and musicians look to computer technology as a creative tool, and not solely for its 'copy and paste' functions, but rather as a source of inspiration and a device that can tap into the culture they are creating for. Due to the advancement (and ease of) technology, artistic craft and production, also prevalent in music, is often faked—but true artistic intuition and engaging thought cannot be. Technology can be important, but not always essential towards communicating an idea, and like technology, style must be employed within the proper context of each artistic endeavor.

The establishment of this spectrum intends to raise awareness amongst artists and educators about the complex implications of appropriation. If a creator has the proper progression of knowledge, passion, drive, and intentions to create something that is innately his or her own artistic vision, there will be accurate defense against the looming threat of a lawsuit. Originality can flourish as long as an artist does not become lazy or formulaic in his or her process. If one strives toward original thinking and problem solving, with a clear acknowledgement and regard for the history of visual culture, he or she will achieve innovative, compelling, and stimulating results.

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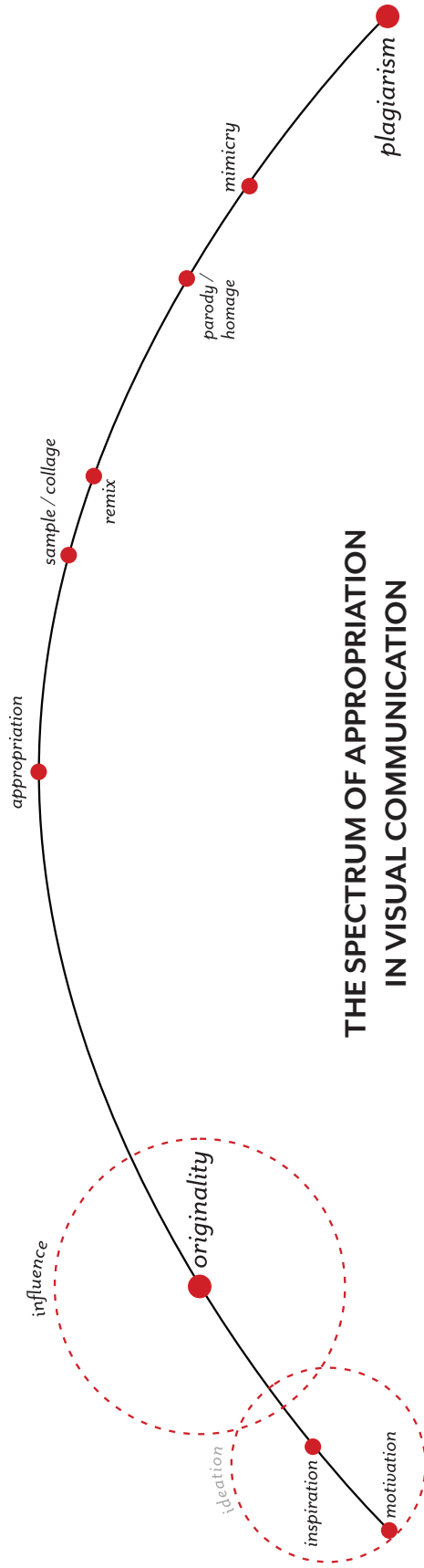
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THE SPECTRUM OF APPROPRIATION IN VISUAL COMMUNICATION

| VISUAL EXAMPLES OF POINTS ON THE SPECTRUM |

Original forms of writing & painting



A.M. Cassandre, an influential designer



Paula Scher (right) was inspired by this Herbert Matter design (left)



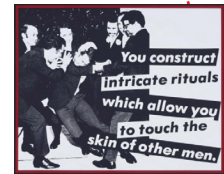
Marcel Duchamp's Fountain. An example of recontextualization



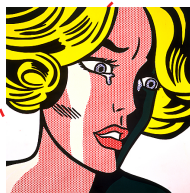
Sherrie Levine's Fountain demonstrates homage



Barbara Kruger is one of the most notable appropriation artists



A mix of pop and appropriation art



Roy Lichtenstein



Andy Warhol's Soup Cans

Kurt Schwitters and the Merz Collage



John Hartfield and the Photomontage



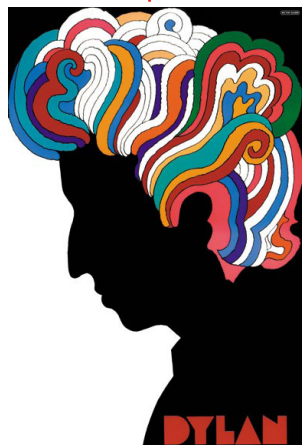
Pablo Picasso's Chair collage



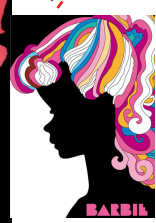
Original Marcel Duchamp silhouette



Remixed by Milton Glaser



This Barbie poster parodies the Dylan one

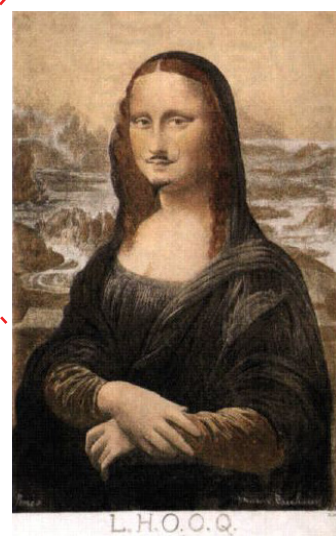


Artists who have been or are in the midst of lawsuits over plagiarism



Richard Prince

Duchamp's L.H.O.O.Q. is one of the earliest pieces of appropriation art, and parodies the Mona Lisa



Shepard Fairey



parodies



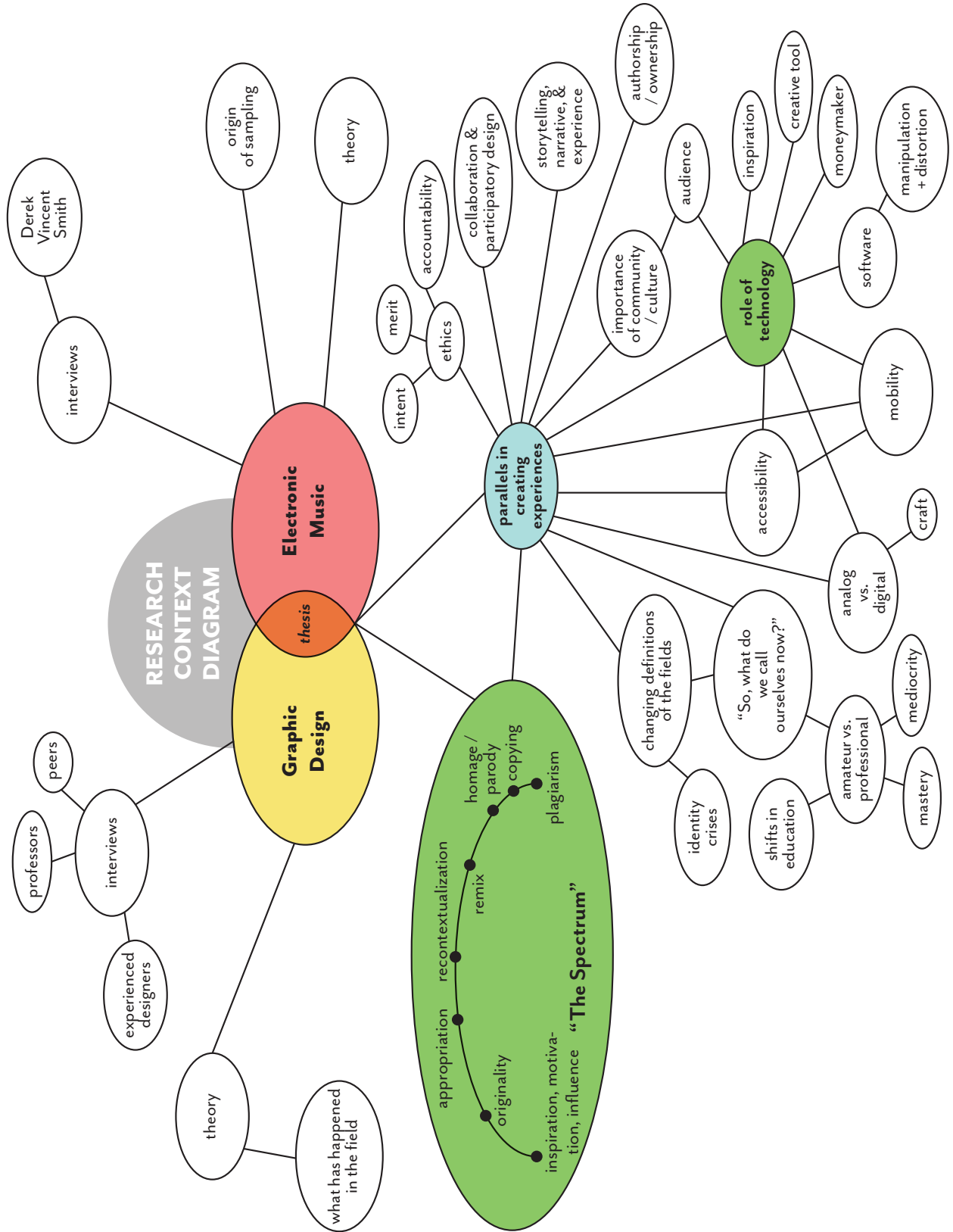
All images found on the web by using basic image database seraches.

| PHOTOS OF THESIS EXHIBIT |

The visual thesis project demonstrates a synthesis between the visual communication and music industries. Appropriation art, in its varying degrees, has been a driving force in our culture that makes the audience question authorship, ownership, validity, and the intent of the artist. By collaborating with a sound design student, a mix tape was created using interviews (some taken myself, and some appreciatively borrowed from a variety of sources) and songs by a plethora of artists and genres. The sound examples were then paired with visual examples in the CD booklet, which showcased the range in the spectrum of appropriation, from plagiarism to originality.







| *Glossary of Terms* |

Appropriation :

The more or less direct taking over into a work of art of a real object or even an existing work of art.

Collage :

Comes from French word "to glue."

An abstract form of art in which photographs, pieces of paper, newspaper cuttings, string, etc. are placed in juxtaposition and glued to the pictorial surface.

Happens in visual and musical cultures.

Context :

The part of a discourse that surround a word or passage and can enlighten its meaning.

Creativity :

To bring into existence.

Culture :

Systems for existence.

Fair Use Clause :

Examples include commentary, criticism, news reporting, research, teaching, library archiving and scholarship.

Innovation :

A fusion of creativity and invention.

Inspiration :

The action or power of moving the intellect or emotion; to emulate.

Motivation :

A force; stimulus; drive.

Originality :

Includes a consideration of artistic merit. Independent effort and judgment; a subjective idea.

Parody :

Pays tribute to a single source. Used as form of entertainment; funny.

Homage :

Pays tribute to a single source in order to construct identity.

Plagiarism :

Copying can be unintentional and yet still amount to infringement. Proof relies on circumstantial evidence which requires scrutinizing the manner and sequence [process] in which the artist worked. Such evidence must show that the opportunity for copying existed and was taken; and that the copying was "substantial" and "material."

The use of another's media as if it was your own.

| *Glossary of Terms* |

Recontextualization :

The borrowing of an image or object and placing it within a different context in order to create a new narrative or commentary. Challenges ownership/authorship.

Sampling :

In music : taking a snippet of a song.

In design : compared to visual collage.

Subversion :

Term used to explain what happens when creators take an original message, shift its context, and turn the message on itself. It is used in order to create an oppositional argument about an initial piece of media.

Steven Heller's 5 Commandments of Stylistic Appropriation from Borrowed Design:

1 Know Your Sources

Understand where style comes from and why it exists or has ceased to exist. Acknowledge that certain approaches may, in fact, belong to a specific time and place that should not be revived.

2 Make Style Relevant

Be certain that the stylistic model is appropriate to your or your client's message.

3 Don't Stop Short of Concept

Use historical form as an influence, not as an end in itself.

4 Respect your neighbor

Many generic styles are so familiar that their lineage is obvious. Personal styles may not be known, so do not take credit for something that did not originate with you. Stealing a design style can have deleterious effects on the reputation and livelihood of a fellow designer. Imitation may be the sincerest form of flattery, but it can undercut a designer's worth in a competitive marketplace.

5 Fight the Power

Do not exploit the emotional power of historical styles. Remember that the world today is not the world of twenty, fifty, or a hundred years ago, and that an appeal to the nostalgic charm of an earlier period may deny the realities of contemporary society as well as lend false value to a product. Plenty of inspiration can be drawn from current events and developments and from the confluence of cultures and ethnicities in today's society. Don't be afraid to look around as well as behind.

Austin Kleon's 'Good Theft vs. Bad Theft' diagram, from his book *Steal Like an Artist*

GOOD THEFT	VS.	BAD THEFT
HONOR		DEGRADE
STUDY		SKIM
STEAL FROM MANY		STEAL FROM ONE
CREDIT		PLAGIARIZE
TRANSFORM		IMITATE
REMIX		RIP OFF

STEALLIKEANARTIST.COM