

*The Grey Album, Celebrity Homage
and Transformative Appropriation*



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The *Grey Album*, Celebrity Homage and Transformative Appropriation

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Abstract of the Paper

In December 2003, DJ Danger Mouse remixed an *a capella* version of Jay-Z's *Black Album* with The Beatles' so-called *White Album*, producing a mash-up titled the *Grey Album*. Within weeks of distributing a few thousand copies over the Internet, Danger Mouse was served with a cease-and-desist letter from EMI, the copyright holder of The Beatles' recordings. Danger Mouse, an amateur DJ who works out of his modest home-studio, had little choice but to comply or else face an expensive copyright infringement case. But fans of the *Grey Album* responded on February 24, 2004, by staging a protest titled "Grey Tuesday," in which several Web sites offered free downloads of the album. Participants decried what they perceived as the copyright regime's suppression of musical innovation, but intriguingly, they also defended the *Grey Album* as a sincere, sophisticated homage to two acclaimed works and the musical celebrities who created them. The nearly unanimous embrace of the *Grey Album* indicates that transformative appropriation of celebrity images and sounds may soon become acceptable (and even legal), but only provided the resulting collage pays homage to the celebrities in question. This paper explores the implications of the *Grey Album* controversy and its ramifications on future musical creativity.

The *Grey Album*, Celebrity Homage and Transformative Appropriation

Introduction by Professor Demers

Professor Demers provided a “sonic tour” of her paper, including tracks from Danger Mouse’s *Grey Album*, 2 Live Crew’s version of “Pretty Woman” and Mike Flowers Pops’ cover of “Wonderwall.” All these tunes flirt with the boundaries of intellectual property law, whether they are classified as mash-ups, covers or parodies. She also screened the “Grey Video,” an unauthorized video mash-up of Beatles and Jay-Z footage, which brings into stark relief the role that both celebrity and race play in the furor surrounding the *Grey Album*. Demers argued that the video depicts Jay-Z, a black hip-hop artist, “hacking into” a Beatles concert. Demers sees the video as playing off of stereotypes of hip-hop thuggery, even though Jay-Z had no role in the creation of the *Grey Album*.

Opening Comments by Professor Boyd

Professor Boyd began by discussing the similarities between the *Grey Album* controversy and the “wardrobe malfunction” at the 2004 Super Bowl. While the 2004 half-time show featured almost all black performers and hip-hop music, the 2005 show featured former Beatle Paul McCartney, who was deemed a safer alternative in an age of obscenity fines. The shifting position of The Beatles, and rock and roll in general, from popular culture to high culture mirrors the evolution of jazz, which was once associated with decadent clubs on the wrong side of the tracks, and is now a part of the programming at Lincoln Center. Both jazz and rock and roll have ascended to higher cultural ground, while hip-hop is regarded as the lower musical form, which flouts conventions of decency and ideas about how music should be made.

Boyd described a *New York Times* article on remixes from March 2004 which mentioned the *Grey Album* as one among many remixes of the *Black Album*.¹ The reason that the *Grey Album* ended up in the spotlight was not because it was the best remix, but because it borrowed the legitimacy of The Beatles, raising it above the hip-hop fray, and making it appealing to a much broader audience. The irony, according to Boyd, is that rock and roll has become an acceptable form of music at least in part because its black roots have been bleached out and virtually forgotten. Poet, actor and hip-hop artist Mos Def challenges the accepted provenance of rock and roll in a song titled "Rock N Roll":

I said, Elvis Presley ain't got no soul (huh)
Chuck Berry is rock and roll (damn right)
You may dig on the Rolling Stones
But they ain't come up with that style on they own (uh-uh)
Elvis Presley ain't got no SOULLLL (hell naw)
Little Richard is rock and roll (damn right)
You may dig on the Rolling Stones
But they ain't come up with that shit on they own (nah-ah)

Mos Def's eclectic list goes on to include John Coltrane, Bo Diddley, John Lee Hooker, Jimi Hendrix and James Brown. Boyd's larger point was that we ought to be suspicious of how cultural authority is conferred. In the case of the *Grey Album*, and in most hip-hop work, Boyd argued that real authority comes from the originality of the lyrics, not from the remixed music.

¹ "Silver, Brown, Gray: Jay-Z Every Which Way," by Jon Pareles, *The New York Times*, March 7, 2004.

Open Discussion

In the music world, artists need to spend big money in order to use samples legally. Some artists, like Dr. Dre, will hire studio musicians to replicate excerpts from recordings that are too expensive or impossible to license. But the musicians and the studio time and the mechanical licensing fee required for re-recording another tune take significant financial resources. Ironically, music sampling grew in popularity because it benefited people with few resources. Boyd explained that hip-hop's rise in the '70s coincided with a drop in funding for music programs. Since hip-hop allows people to make music from music that's already been made, it was a cheap alternative for budding musicians who did not have access to musical training or instruments. Now, sampling has become the privilege of the rich.

Professor Boyd pointed to Puff Daddy as an example of how sampling has become an expensive, and sometimes gaudy, corporate endeavor. Puff's 1997 hit "I'll Be Missing You" was set to the Police's "Every Breath You Take." Since DJs are often respected for making sampled work virtually unrecognizable, the hip-hop community saw Puff Daddy's wholesale use of one of the most popular songs of the '80s as a sign of his lack of talent and originality. Communication PhD Candidate Aram Sinnreich, a former music industry analyst, claimed that Puff's use of the song – and his performance with Sting at the MTV Music Awards – was an example of hip-hop's embrace of "bling" – gaudy displays of wealth. Instead of making the song artfully unrecognizable, Puff Daddy flaunts his ability to pay the (no doubt) exorbitant fees associated with the use of it. The performance at the MTV Awards emphasizes Puff Daddy's acquisitioned power: Sting, a worldwide pop superstar, is basically a member of Puff's band.

The question of authenticity in hip-hop is especially interesting, because so much of the genre integrates work performed by previous artists. But instead of devaluing authenticity, Boyd argued that it is crucial to the reputation of a hip-hop artist. Lyrics, in particular, are to be original and, ideally, the artist should be able

to create them instantly, based upon his or her real life experiences (and the tougher the life, the better). When rumors circulated that Jay-Z, perhaps the most respected rapper in the business, was ghost-writing lyrics for Will Smith, the hip-hop community was up in arms.

Unlike other musical genres, hip-hop music usually doesn't feature a songwriter, but instead, a producer. Boyd suggested a parallel with jazz, where the song is treated as a point of departure, not a blueprint for a performance (John Coltrane's version of "My Favorite Things" being a marvelous example).

In creative world of hip-hop and jazz, some of the basic tenets of intellectual property law do not sit well. Sinnreich pointed out that most early jazz songs were based upon the chord changes from "I Got Rhythm." According to Communication Professor Christopher Smith, when hip-hop was first emerging from the streets of New York, good DJs were required to have a certain collection of classic tracks in their case. Out of those "creative commons" DJs were expected to develop their own "blends," ghetto versions of mash-ups. Smith reminisced about LL Cool J and Stephanie Mills remixes and wondered whether those artists were happy that they were part of this remix culture or not.

Professor Demers mentioned James Brown's reaction to being sampled: He compared it to someone taking a button from his coat. But Professor Boyd emphasized the legitimacy that artists earn from appearing on underground mixed tapes, which are sold illegally on urban street corners. While Boyd doesn't believe they want to remain underground, artists like 50 Cent, who had the best-selling album of 2003, derive a great deal of authority by emerging from these networks. Jay-Z also arose through street exchanges and he claimed that it would be hypocritical to oppose remixing (Danger Mouse did not receive any cease-and-desist letters from Jay-Z's label). Boyd argued that the *Grey Album's* authority was not conferred by the underground exchange but instead from a middle class, bourgeois aesthetic, which embraces anything having to do with The Beatles. Since Metallica has taken a very clear position against unauthorized use of their recordings – including a suit against universities, such as the University of

Southern California, for allowing students to access services like Napster – Professor Smith asked whether the heavy metal band has responded to the mash-up of their recordings with Jay-Z’s vocal track. Demers said she had not heard about any reaction from them, and she suspected this might be an attempt to repair their image after a successful hoax. Apparently, hackers accessed the front page of mtv.com and placed a fake news item about Metallica suing for the use of a chord change. The story was picked up by CNN and other major news outlets.

English Professor Leo Braudy pointed out the long tradition of appropriation in music, including in rock and roll and movie soundtracks, and he wondered why things are so different now. Professor Demers described the new situation as a “permissions culture” – if you want to sell something, and you don’t have money to pay for samples, don’t take anything, not even the tiniest slice, unless you want to make your work unmarketable.

Braudy emphasized the crucial role that appropriation plays in art and literature, where “intertextuality” is both expected and encouraged. In fact, the business of scholars is to connect things to one another, to locate the common strains among various cultural works. To pretend that each creative work is a completely separate entity is untenable. Fisher Galleries Director Selma Holo agreed, suggesting that there would be no art history without the adaptation of images.

Professor Larry Gross, Director of the School of Communication, emphasized the role that “profit centering” plays. Once an industry develops centralized clearing houses for creative content – his example was Rosenthal Art Slides – then the history of creativity changes. Owners of reusable content develop methods for licensing the material and policing the use of it in new creative work.

Accounting Professor Mark Young asked whether mash-ups affect sales. Demers had found that the online release of the *Grey Album* had, indeed, led to a peak in

sales of the *White Album*. Professor Smith wondered whether corporations will embrace mash-ups, since they have obvious financial potential, and Demers mentioned a couple of recent examples: A DJ was allowed to produce electronica music for an Elvis vocal track, and David Bowie sponsored a contest where he encouraged artists to mash-up his work. But Demers was concerned that corporate sponsored “transformative appropriation” is not the model we ought to promote. In the case of the Elvis track, which topped the charts in the UK, the DJ actually had to change his name from Junkie XL to JXL before the single was released, and with the Bowie contest, Bowie retained all the rights to the mash-ups. Demers praised the work of the Creative Commons organization, which provides more flexible licensing options that help promote transformative appropriation.

Participants

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