

Sampling Real Life: Creative Appropriation in Public Spaces

Elsa M. Lankford
Electronic Media & Film (EMF)
Towson University
elankford@towson.edu

I. Introduction

Enter an art museum or a library and you will find numerous examples of appropriation, all or most of which were most likely legal at the time. From the birth of copyright and the idea that an author, encompassed as a writer, artist, composer, or musician, is the creator of a completely original work, our legal and moral perceptions of appropriation have changed. Merriam-Webster defines appropriation in multiple ways, two of which apply to the discussion of art and appropriation. The first, “to take exclusive possession of” and the second “to take or make use of without authority or right.”¹

The battle over rights and appropriation is not one that is only fought in the courtroom and gallery, it also concerns our own lives. Many aspects of our lives involve appropriation, from pagan holidays appropriated into the Christian calendar to the music we listen to, even to the words we speak or write appropriated from other countries and cultures. As artists, appropriation in many forms makes its way into works of any media.

The topic of appropriation leads to a discussion of where our creative ideas come from. They, in some sense, have been appropriated as well. Whether we overhear a snippet of a conversation that ends up woven into a creative work or we take a picture of somebody, unknowingly, as they walk down a tree-shadowed street, we are appropriating life. For centuries, artists have been inspired by public life, and the stories and images of others have been appropriated into their work. Is that any different from appropriating the work of another artist? Or does all creative inspiration come from within, as we apply the Romantic definition of author to all artists, at least those with original works.

This paper will touch on these subjects. I will begin with a discussion on art, copyright, and appropriation with a brief history and then cover contemporary artists and court battles that have ensued, particularly in the modern and postmodern eras. I will then move to a discussion about the behavior and rights of those in public space, how much appropriation of life is possible when outside of the home. Lastly, I will discuss my current creative project, *Eight Ways to Find and Tell A Story*, which concerns the appropriation and incorporation of public life into multiple media narratives.

II. Appropriation and Copyright

Since the time of the first artwork, appropriation has played an important role in the lives of artists. Without appropriation of some sort, every single creative work must be completely original, and how is that possible? There are limits to the number of words and notes and colors that we can use. We are inspired by others. We appropriate thoughts, concepts, ideas, or even fragments of the works of other artists and creators of media.

The history of copyright must be prefaced by saying that until the nineteenth century, only written works were protected. Prior to the eighteenth century, which brought with it the introduction of the modern copyright and the Romantic ideal of the author as creator of completely original works, appropriation played an important role. Martha Woodmansee writes “From the Middle Ages right down through the Renaissance new writing derived its value and authority from its affiliation with the texts that preceded it, its derivation rather than its deviation from prior texts.”²

The values of society and culture have affected the role of the artist and author throughout time. In medieval times through to the eighteenth century, the monarchy controlled the commerce, the market, and the ownership of a creative work, particularly written. As the printing press was invented in the mid-fifteenth century, the role of the author began to change. “The modern idea of the author as a creative artist and independent being with legal and proprietary rights in and to his work, is among other things one of the long-term results of the introduction of print into Western culture.”³ Even after the printing press, authors still did not truly own their works or the rights to them for hundreds more years. “Indeed, the very notion of owning a text as property does not quite fit the conception of literature in the early modern period in which it was common to think of a text as an action rather than a thing.”⁴

In 1557, Queen Mary I of England created the Stationers’ Company, considered to be the first copyright act. The Stationers’ Company was not created to protect the rights of the authors, however, but rather as a method of controlling the printed word. Sivan Vaidyanathan writes, “The earliest British copyright laws were instruments of censorship.”⁵ Only members of the Stationers’ Company guild could print any written material, and authors who printed material displeasing the court would be punished, as the court expected the guild “to assist the government in preventing the publication of treasonable, seditious, or heretical books, in discovering the authors or printers of any obnoxious works that appeared, and in carrying out the regulations which the government from time to time made.”⁶ The Stationers’ Company was in existence through to the late seventeenth century, leaving the authors with little rights to their own words.

As the rights of authors were taken back from the printers and booksellers, the role of the author became more prominent, and anonymity was no longer acceptable. The author began to assume the role of creative genius, where his or her words and ideas were completely original. And during this time period, the appropriation of other writers was

beginning to change as well, through the changing of the use of the quotation mark. Through to the seventeenth century, “rather than cordoning off a passage as property of another, quotation marks flagged the passage as property belonging to all – ‘common places’ to be freely appropriated (and not necessarily verbatim and with correct authorial ascription).”⁷

It was not until 1709 with the Statute of Anne in England that authors began to control some of their works including the ability to hold a fourteen year copyright. Under the Statute of Anne, the author began to benefit from copyright protection, but only marginally at first, and not wholly intentionally, as it made “the public’s interest equal, if not superior to the author’s.”⁸ As Jane C. Ginsberg writes, the primary reason for the Statute of Anne was “... a means to maximize production of, and access to, intellectual creations.”⁹

But it was during the French Revolution when authors truly gained their rights. “In France, the property theory of *droit d’auteur* can be traced back to the French Revolution, which not only swept away the privilege system, but also saw the elevation and sanctification of the concept of property.”¹⁰ The author was cast more as a public servant as opposed to a private citizen.¹¹ As the author began to get more rights, the concept of a monopoly, albeit a short-term monopoly, was reintroduced to the written word.

While the copyright laws were changing, society and technology was also changing. Industrialization brought with it a different type of work and worker, the concept of mass-produced items such as food and clothing, and the ability to mass-produce art as well. Mechanical reproduction began through the use of the camera, and spread to other media as the twentieth century appeared on the horizon. As the possibility of seeing originals in everyday life became more difficult, the protections of the original in art became more stringent.

During the nineteenth century, Romantics such as William Wordsworth, began to form a definition of an author as a creative genius. The Romantics believed that inspiration for an original work comes from inside, and not from others. While in “Quotation and Originality,” Ralph Waldo Emerson credits those from the past, he also wrote “To all that can be said of the preponderance of the Past, the single word Genius is a sufficient reply. The divine resides in the new. The divine never quotes, but is, and creates.”¹² While the romantic notion of author as genius may not have been a large influence in the creation of original copyright law, it certainly continues to play a role in the courts to this day. A copyrighted creative work needs to be original, with very few exceptions.

Post-Structuralists denounced the idea of the author as creative genius, during the 1960s and 1970s. The Post-Structuralists saw the author as “emerging from the Middle Ages with English empiricism, French rationalism and the personal faith of the Reformation, it discovered the prestige of the individual, of, as it is more nobly put, the ‘human person’.”¹³ Writers and thinkers such as Roland Barthes and Michel Foucault, believed that “meaning is not determined by the author, ... but by the reader. Thus, Foucault and Barthes assert that understanding a text (or a work of art) begins with the ‘death’ of the author.”¹⁴ The death of the author allows the work to be reinterpreted in different ways,

which ends up posing the question of what was truly original about the piece in the first place.¹⁵

Since the Post-Structuralists, the concept of the author has not changed. The length of copyright has increased from an original fourteen years through to the current term, which is the author's life plus seventy years. This means that only works created before 1923 are in the public domain. The question is who benefits from such a long protection. The artist? Or the companies holding copyrights like Walt Disney? The original concept of copyright is to further the progress of the arts and sciences. Are they still being furthered? As Sivan Vaidyanathan wrote, "American copyright law at the beginning of the [20th] century titled in favor of consumers at the expense of producers. In an attempt to redress that anti-consumer imbalance, the U.S. Congress, and international organizations have succeeded in tilting the body of law dangerously the other way."¹⁶

There are alternatives. One that is gaining popularity is Creative Commons, started by Lawrence Lessig in 1990. In general, Creative Commons encourages sharing of material and allows for repositories of licensed works through the use of different types of licenses. Licensing choices like Creative Commons allows for the artist to still own the work while sharing it with others.

III. Appropriation and Visual Art

Throughout the history of visual art, appropriation has been a commonplace and encouraged activity. The copying of artworks goes back to the ancient times, as Walter Benjamin wrote about the Greeks copying certain works. "Bronzes, terra cottas, and coins were the only art works which they could produce in quantity. All others were unique and could not be mechanically reproduced."¹⁷ It was not just about the ability to mechanically reproduce pieces. The idea of copying for learning or otherwise also goes back to the times of the Greeks. "At least since Plato the theory and practice of the visual arts have been founded, almost exclusively, upon the relationship between the real and its copy."¹⁸

At this time, artists in all media were considered craftsman. The idea of copying or imitating a style was part of the learning process. Through the sixteenth and into the seventeenth century, "The master did the initial sketches and oversaw the progress of the painting, but to distinguish his hand from that of his assistants is impossible, and nobody at the time would have thought of trying to do so."¹⁹ For multiple copies of a painting, "no distinction was made between the original and the copies-all versions would be equally 'original' or equally 'copies.'"²⁰ It was not until Rubens and other painters, in the mid 1600s that paintings would be requested to be entirely done by the master.²¹

Appropriation as a method of questioning the originality and authorship of art can be traced back to Manet's *Olympia* (1863-1865). This painting has a history of appropriation back to at least the sixteenth century. Giogione is copied by Titian who is copied by Rubens who copies Delacroix which begets Manet's *Olympia* which is copied

by Gauguin and so forth.²² As John Carlin wrote, “From this point on, art about art became an overt and integral aspect of Modernism.”²³

Entering the twentieth century, artists such as Marcel Duchamp and Pablo Picasso brought pieces of mass-produced life into the galleries. As society and culture changed, it was reflected through the works of these artists. Mechanical reproduction, both in terms of works of art and items sold in the stores, became displayed in their works as the idea of an original anything became harder to find. Popular culture through the scope of mass media also became an important focus and literally featured in pieces of art.

Instead of just intimating or hinting about everyday objects, artists began to appropriate these pieces of life directly or indirectly into the works. Cubist artists such as Pablo Picasso and George Braque used objects from their everyday lives, items like newspapers, photographs, and even trash, to incorporate into their pastiches.²⁴ About a half a century later, Pop artists also “...examined and depicted the objects and images of their world with an intensity designed to make the viewer uniquely conscious of the reality of such objects and images.”²⁵

It was not simply Marcel Duchamp’s appropriation of a urinal (*Fountain* 1917) entered into a gallery exhibition as his work, or rather, the work of R. Mutt, that marked this trend. Duchamp helped to usher in an era of political recontextualization of the work of others, machines and artists included. Duchamp had over fifty readymade sculptures, which were mass-produced items. “Duchamp’s found-object sculptures emerged from within a dense network of avant-garde thinking about the relationship between things for use and things for show, and about the intrusion of commonplace objects into the category of sculpture.”²⁶

The appropriation of culture, particularly media culture as well as the mundane, was endemic to Pop art of the 1950s and 60s. Andy Warhol and Robert Rauschenberg appropriated photographs of others and made them into silk-screens.²⁷ Roy Lichtenstein took primarily comics and turned them into paintings. Some of Lichtenstein’s works were full appropriations, enlargements of another work. Others were a combination of the works of others: a facial expression from one person’s work, a background from another. “What looks in Lichtenstein like an appropriated mass style is in fact a homogenized assemblage of personal styles; what look like pop clichés appropriated deadpan are in fact invented pop clichés, spliced together from bits and pieces of individual manners.”²⁸ Like Duchamp and Warhol, Lichtenstein brought one form of art from the store into the gallery. Robert Rosenblum, art historian and curator, wrote that Lichtenstein “succeeded in assimilating the ugliness of his subjects into new works of art, whose force and originality may even help to reconcile us to the horrors of the Brave New World in which we live.”²⁹

Warhol, as well as, Jasper Johns was essential to the movement of appropriation and art. Warhol took items from grocery stores and mass media and put them into museums and galleries. Jasper Johns, another Pop artist, appropriated everyday objects in his works as well. “... Johns’ sources were typically generic (flags, targets, numbers, maps, etc.) and

therefore in the public domain; whereas Warhol and most Pop artists appropriated commercial properties from the mass media.”³⁰ Essential to the Pop movement was the appropriation not only of the works of others, but also of the technique of producing the art, in order to emphasize the mass production and assembly line characteristics.³¹

Johns and Lichtenstein began the copyright issues that many appropriation artists in the 1980s and 1990s would face. “Roy Lichtenstein, Tom Wesselman, James Rosenquist, Claes Oldenburg, and Jasper Johns, all of whose work is dependent upon the appropriation of existing source material, have never been sued for this reason. Their contemporaries, Robert Rauschenberg, Larry Rivers, and Andy Warhol, have been less fortunate.”³² Having appropriated copyrighted works without permission, later Pop artists like Warhol would end up settling out of court, typically trading their artworks instead of cash.

In the mid 1960s and 1970s, Elaine Sturtevant “... raised a storm of controversy by re-creating exactly, down to their very dimensions, paintings and objects by not only Duchamp, that old master of confounding original and reproduction” but also artists of her time. As Rosenblum continues, “For some her work was outrageous plagiarism. But for others her role in the art world was distinctly disturbing, far more than an abstruse mediation on questions of artistic originality.”³³

A decade later, the Appropriation movement started, with its lineage from Duchamp through to the Pop artists. Artists such as Sherrie Levine, Jeff Koons, and Mike Bidlo fully appropriated works by other artists. The difference between past appropriation and the appropriation by these artists is how much is appropriated, and why the act of appropriation has occurred. The lawsuits escalated as copyrighted works were incorporated and sold under the name of another artist.

Most of the Appropriation artists credit the source of the appropriation. As post-modern artists, their take on originality is much different than their predecessors, those that they are appropriating. Romantics and even modernists, as Richard Shiff points out, “associate artistic authenticity with an expressive manner so autonomous that it must also appear innovative.”³⁴ Levine reprints photographs by other photographers and credits the original source, such as Walker Evans, in the title. She still has a component of originality to her work, as she appropriates the work of male artists, and recontextualizes them in the gallery as the work of a female.

Koons, having appeared in multiple lawsuits for his appropriation, directs his work, but does not physically create it. He has lost these suits, most famously *Rogers v. Koons* (1992) where his work, *String of Puppies*, was not considered transformative enough from the original, a photograph. Just recently, in late 2006, an appeals court found another of his works, *Niagara*, transformed an appropriated photograph enough for it to have not been copyright infringement.

The 1990s also brought with it the issue of moral rights of the artist, through the Visual Artist Rights Act of 1990. The artist, even when copyright is sold for a work, can still

control what happens with his or her work if it is a unique work of “fine art” and less than two hundred signed copies have been made. This allows for an artist to control how their work is appropriated and treated.

Over time, society and artists have had changing opinions about what and how much appropriation in art is possible. As copyright protection has increased, artists have been the ones to test its boundaries. While appropriation has become illegal in some sense, it is used as a method of questioning not only the authorship and originality of the newer work, but the original appropriated one as well.

The copyright law, since the 1970s, has some “wobble room” built in to allow artists in all media to experiment through fair use and transformative means, both of which are discussed in the next section. However, if artists transform, yet still lose lawsuits, the question becomes how much transformation is necessary for a work to reclaim its originality.

IV. Appropriation and Music

It was not until 1865 that U.S. copyright protected music, and that was just the protection of musical compositions. Even though the phonograph was invented in the 1870s, musical recordings did not receive copyright protection until 1972. Technology enabled and propagated appropriation in music. Musical quotations, while possible through imitation in the past, became possible through digital technology and sampling. These appropriations have not only allowed for a representation of another musical work, but for the appropriation of life in public space as well.

Appropriation in music is not always intentional. A Western musical scale can be broken down to twelve components, called semitones. While there are multiple octaves, the doubling or halving of a musical frequency will raise or lower a tone by one octave), musical compositions are made up of a combination of these twelve notes. That makes it statistically difficult to not have a similar melody or riff in a new musical work when compared with one of the thousands, or more likely millions of existing musical compositions, especially on paper. It was the introduction of recording technology that allowed the appropriation of the timbre or tone of the music as well as non-musical sounds.

During the early twentieth century, recording and music technology was still in its infancy. Records moved from wax to vinyl and wire. These technologies were difficult to work with musically. Composers who tried to work with records had issues as “The techniques available, which were restricted primarily to the manipulation of speed and direction and the superimposition of sounds, were clumsy and did not offer enough possibilities.”³⁵ Musical artists who wanted to appropriate sounds of life and the out-of-doors, resorted to creative methods. Luigi Russolo wanted the sounds of machinery and industry in his works, so he created his own noise machines in the first quarter of the century. As Barclay Brown writes of him, “He was probably not only the inventor of the first mechanical synthesizer but the first major exponent of musical synthesis itself.”³⁶

As Cubist artists such as Picasso incorporated objects into their pastiche works, musical artists began appropriation of recorded sounds of nature, the outside, people, and machines, as well as other works. It is appropriate that pastiche would be found in musical works as well, as it is a modern and post-modern construct throughout all forms of art. Pastiche was possible through the use of a material that, like paper, could be cut and pasted. Audiotape became available to work with in the late 1930s. The further development of audiotape from a monophonic to multiple tracks, additionally gave musical artists and producers the ability to more fully experiment with sound. In addition to the sheer number of tracks, tape also brought about portability and the start of the ability to truly appropriate others and life. Audiotape became an important musical instrument to John Cage and to the musical “Cage remembers that when the French composer Pierre Schaeffer first introduced him to audiotape in 1948, he rejected its possibilities; but within a few years, he was working on *Williams Mix* (1953),”³⁷ which was primarily made of recorded sounds on tape. The tape was edited and put into an “aural pastiche.”³⁸

Also like appropriation and the form of pastiche in visual art, part of the uniqueness and form of *musique concrete* and sonic pastiches was the recontextualization of the elements within the work. “*Musique concrete*, for example, succeeded (or failed) not because everyday sounds were documented, but precisely because those sounds were yanked from their original contexts and transformed into musical constructs.”³⁹

Appropriation in the music world did not just occur through the ability to record and manipulate the recordings. It happened as, throughout time, cultures and societies were appropriated as well. “As Americans popular music grew steadily Africanized, authorship grew fuzzier and authorial creativity became more of a legal concept than a cultural one.”⁴⁰

It was MIDI and digital audio, specifically the digital sampler, in the 1980s that made fairly simple appropriation of copyrighted works possible, and the floodgates to the lawsuits began. The first sampling case was in 1991 and featured a rapper Biz Markie who sampled a piece from a 1970’s song by Gilbert O’Sullivan. Markie lost, as the judge quoted the Seventh Commandment, “Thou shalt not steal” and went on “requiring Markie to remove all of his albums containing the O’Sullivan sample” as well as threatening prosecution.⁴¹

Samplers have had, at least through 2004, two choices: License a sample from a copyright holder or if the sample is small or transformed enough or try for fair use/de minimis. Music recordings involve two copyrights – the copyright of the composition and the copyright of the recording itself. A typical license fee runs from five to eight cents for the master royalty and close to four to eight cents for the composition.⁴² The non-refundable advance is calculated by multiplying the license fee by the number of expected units to be sold, between 500,000 or 1,000,000 to come up with a license fee of \$87,750 to \$155,500, assuming one million units.⁴³ The amount for the license fee really

depends, as the negotiations can be for a flat fee or royalty, and will depend on the artists or more likely companies involved.⁴⁴

Samplers have counted on *de minimis* in the past, the ability to use such a small portion of a copyrighted work, that it frankly does not matter to the original copyright holder. But these cases have not been “uniformly applied” and cannot be counted on.⁴⁵ Fair use has been another argument which “specifically allows users to make copies of, quote from, and refer to copyrighted works for the following purposes: in connection with criticism or comment on the work; in the course of news reporting; for teaching or classroom use; or as part of scholarship or research.”⁴⁶ Transformation is the last argument for samplers, where the piece has been so manipulated and transformed that it is no longer the original work. These last two arguments, fair use and transformation, are arguments within visual art appropriation cases as well.

There are artists who refuse to have their works be sampled. Others argue that “It is just as absurd to limit a musician's access to a particular group of songs because others are available as it is to limit a painter's access to certain paints because others are available. Both situations cut against the promotion of creation, which is the very essence of copyright law.”⁴⁷

And yet other artists have been used extensively, “By the early 1990s, at least 180 recordings by more than 120 artists contained samples by some of funk godfather George Clinton’s P-Funk school.”⁴⁸ Using samples of other work also raised the question of the status of the artist. “The creator of a sampled-sound piece, therefore, is ultimately merely an arranger, pasting together fragments of a musical history in such a way that the total exceeds the sum of the quotes. But this is arguably what a composer does.”⁴⁹

As sampling has been occurring over the last quarter of a century, there are other sonic art forms that appropriate life in the public space as well. Phonography, which is by the capturing or recording of the soundscape of an area, sometimes known as acoustic ecology. The reasons for creating phonographic recordings or getting involved with acoustic ecology can be for many reasons. It can be part sociology, to record how an area, whether it be a park or a neighborhood sound. It can be part environmentalism, to preserve not only how an area looks, but sounds, and to prevent noise pollution. The pieces can be made into podcasts, or played through speakers as an accompaniment to an existing soundscape.

V. Appropriation and Writing

The concept of author, as defined by the Romantics as the creative genius, originally was designated for those whose media was pen and paper. Appropriation in writing was given a different name, plagiarism, whose appearance in the English language did not happen until the seventeenth century, and whose current definition did not occur until the 1700s.⁵⁰ Entire books could and have been written on appropriation in writing, whether it be questioning the authorship of Shakespeare’s work to the modern and post-modern concept of

appropriation. Given the extensive amount of material on this topic, I will focus on a well-known American author who fought for additional copyright protection at the turn of the century, as well as the concept of quotation in writing.

In a way, appropriation occurs constantly throughout writing. It seems to be the only media in which simply citing the source is enough. There is no money exchanging hands for a writer to sample the work of others. Is it because those who are writing are typically employed through academia and are writing for the public good? Imagine the difference in the quality of written works if permission had to be granted and licensing fees paid to quote others as one must do to quote others in music and visual art.

Mark Twain, is just one of many writers, who has written other people's stories. While he fought hard for the extension of copyright protection in the early twentieth century, he also realized the source of his inspiration. In a letter to Helen Keller from 1903, who had also run into her own problems with plagiarism:

...for substantially all ideas are second-hand, consciously and unconsciously drawn from a million outside sources, and daily used by the garnerer with a pride and satisfaction born of the superstition that he originated them; whereas there is not a rag of originality about them anywhere except the little discoloration they get from his mental and moral calibre and his temperament, and which is revealed in characteristics of phrasing.⁵¹

VI. Appropriation and Life

Artists look everywhere for inspiration. When they are lucky, inspiration wafts its way over to them. A telephone conversation with a friend, a television commercial, an overheard cell phone call can be fodder for creative works in this era. Prior to this technological privatization of our lives, the streets and public spaces inspired many artists, and continue to do so. As artists we must be mindful of our level of appropriation of life in public.

European streets, squares, and parks provided meeting places and interactivity from early on. During the eighteenth century, public space began to be further developed in cities. As Richard Sennett wrote about this time period, "This was the era of the building of massive urban parks, of the first attempts at making streets fit for the special purpose of pedestrian strolling as a form of relaxation. It was the era in which coffeehouses, then cafes and coaching inns, became social centers; in which the theater and opera houses became open to a wide public...."⁵² The act of going out in public was for socialization, to see, and of course, to be seen. Many public parks were built for such activity, as the wooden sidewalks alongside the streets were frequently in disrepair.⁵³

In the eighteenth century, flaneurs were beginning to use walking in the city as a way of learning about life. They flourished in Germany, but particularly in Paris. "As a city

stroller, the flaneur is at once a dreamer, a historian, and a modern artist, someone who transforms his observations into texts and images.”⁵⁴

The mid-nineteenth century and the industrial revolution introduced changes to the perception of public life and the division between public and private. Some felt more independence and privacy in the company of strangers out in public, than in their homes.⁵⁵ Silence between strangers in the street was not only allowed but encouraged.

As there were changes happening in the public space, there were changes happening in the private space as well. As these changes were happening, people, only the rich at first, were beginning to move their residences from the urban centers to the suburban developments that were being made accessible by the burgeoning mass transportation, railroads and then eventually streetcars. And business life was also changing, as the industrial revolution brought with it the concept of mass-produced clothing and goods, and the less personal place to buy these items, the department store.

Privacy in the form of private transportation in the early twentieth century, specifically automobiles, certainly did nothing to encourage public life. Cars transformed streets from meeting places to exclusive automobile use. Automobiles and incentives from the federal government assisted in moving many out of the cities into the suburbs, mostly after World War II, where their lives were further privatized. Richard Sennett got it right when he wrote:

Today, we experience an ease of motion unknown to any prior urban civilization, and yet motion has become the most anxiety-laden of daily activities. The anxiety comes from the fact that we take unrestricted motion of the individual to be an absolute right. The private motorcar is the logical instrument for exercising that right, and the effect on public space, especially the space of the urban street, is that the space becomes meaningless or even maddening unless it can be subordinated to free movement. The technology of modern motion replaces being in the street with a desire to erase the constraints of geography.⁵⁶

Despite this downturn of our apparent attitudes toward public space, cities seem to be enjoying a renaissance. Even for those who continue to reside in their suburban cul-de-sacs, many suburbanites make their way to the urban public spaces outside of work. The cities’ public life is far from dead, it continues to live on, on the sidewalks, the markets, the squares, and the parks. One reason for this must be that the suburbanites’ choices for public space are mostly artificial and contrived. Walking in a mall, or the newer version of the mall, the “avenue” has none of the many layers of diversity that an urban marketplace can offer.

Over time, as the attitude towards public life has been changing, artists have continued to be inspired by people that they see, overhear, and interact with, or at least observe in public. While creative inspiration is certainly a wonderful thing, as an artist and a citizen, I have concern about the rights, or lack thereof, of those in public spaces. In our current

celebrity-starved American culture, we seem to have no problem with paparazzi following around the curiously famous. However, as individuals, do we have the rights to protect our own identities when out in public? Perhaps surprisingly, we have little rights to privacy in public. While Elizabeth Paton-Simpson writes in “Privacy and the Reasonable Paranoid: The Protection of Privacy in Public Spaces” that “There is generally no liability for observing, following, or photographing someone in a public space.”⁵⁷

While my own project also involves sound, I found very little about the ability to record in public. In Maryland, one cannot record a conversation without consent of both parties. But what about recording sounds in public when people happen to be talking?

Walker Evans, in his 1938 subway series of photographs, took pictures from a hidden camera tucked beneath his coat. Slightly later, in his “Labor Anonymous” images, he unknowingly took pictures of Detroit workers as they walked to and from work across the street. Robert Frank, Gary Winogrand, Helen Levitt, Henri Cartier-Bresson, and Alfred Stieglitz are among a few of the renowned photographers who captured the public. While many of their pictures have gone into museums and collections, the images of those appropriated were never asked to sign a release form, or asked at all. When you go out in public, you give up some of your rights of privacy. This can be a wonderful thing for an artist, but not so much if you are on the other side of the lens.

VII. Eight Ways

I teach audio and sound at Towson University, and copyright issues come up frequently. The students question the length of copyright for music and the price to license a song for incorporating into a visual or sonic work. I use clips of TV shows to have them practice dialog replacement, foley, and sound effects. I have them download but also upload sounds from Freesound,⁵⁸ which encourages them to be more aware of copyright and of sharing with others around them.

Outside of the classroom, I am currently working on *Eight Ways to Find and Tell a Story*, an ongoing creative project, that is very involved with appropriation in public space. I am looking for, creating, and then presenting eight multiple media narratives, the ideas of which were inspired by my riding of the number eight bus in Baltimore City through to Towson (a northern suburb of Baltimore). I got the idea for the project while riding the bus one day to work.

Like other urban areas, Baltimore, although it has a subway and light rail system, relies on bus transportation as its main form of mass transit. Busses have a negative connotation to them, which I have personally noticed as I am asked if I need a ride when mentioning I was taking the bus. For a country that as recently as sixty years ago had wonderful and comprehensive mass transportation systems in most if not all urban areas, it is amazing to see how we, both citizens and government, have tried to replace them with the automobile. Hopefully, a positive side of the newly found concern over global warming will be a return from the private commute to the funding and improvement of

mass transit. However, we are not there yet, so finding a positive reason for myself, and others, to take the bus was very appealing to me, particularly in a creative project.

As I ride the bus, I collect fragments of sounds, write down key words that reach my ear from overheard conversations, or take images while riding the bus or walking the bus line. This raw material, when sifted through, will provide the basis for eight narratives. The media for the narratives will differ, with the most appropriate media being used for that particular story. I will be working with sound, composed music, music created from recorded samples, still images, and Flash animation, or a combination thereof.

One possible problem that I must be very careful with on this project is the stealing or even the accusation of stealing the voice or story of another. A future project might be the collection of actual stories on the bus, which would make for great rides to and from work, for the storytellers as well as the listeners. However, for this current project, what I am looking for is not a full story, but one or two words, maybe even a sentence, to start a new story, or the rhythm from footsteps getting on the bus to start a new composition. The sounds will be manipulated, edited, and transformed for the final presentation(s) of the work. The images will not be of people, but of place. My raw material, as in my other projects, is that which is overlooked or overheard. Not so much voyeurism, but a full awareness of my surroundings in a creative, not paranoid, sense. The end results will be multiple media pastiches, building on the artistic tradition of collage from modern and post-modern artists.

One reason that I feel strongly about this project is my interest in urban/suburban issues and that creativity can be found in what we might find to be an unusual place. While concentrating on the act of driving, our receptors to creativity suffer. When we take the bus, we lose control over the journey, the route and the speed, but we gain the possibility of full use of our senses. We might drive past a particular tree for years, but not really notice it until we walk by, or are driven by somebody else. Not counting bus rapid transit, which does sound like an intriguing alternative to rail in certain areas, the pace of the bus is slower, as it has to deal with traffic, parked cars, and the constant changing of passengers. While this is a problem for the bus as a commuter vehicle, as an artist and observer, it is actually a benefit. There is more to see outside the bus window, of an urban environment that was built more for the pace of walking than the pace of driving.

We have little rights for privacy in public. I am not looking to push the boundary on this issue in this project. I am not trying for surveillance, but rather, with sound as a main media, to find rhythms and patterns to sounds and words. I actually record for the sounds, such as coins entering the fare box or the bus taking off. I am appropriating life, but not full appropriation as many street artists have done in the past. Rather, I should say that I am sampling life, and applying the samples to a different creation.

This project is still ongoing. I have collected all of my raw material, and now, over the summer of 2007, I will create the narratives. The presentation of the finished narratives will begin in the fall of 2007.

Working on this project has opened my eyes and ears in ways that I was not originally expecting. I have frequently come up with narrative ideas in the past from an overheard word or two. Public cell phone use, while completely inappropriate in most senses, can be a blessing for somebody looking for a narrative. I have heard some very sad and upsetting things on the bus on occasion, stories that need to be told in that person's voice. Now, while I do not ride the bus everyday, I continue to use it far more often than before.

VIII. Conclusion

There are two sides to appropriation. Those who appropriate must credit, financially or otherwise, the source of their inspiration. Those who are being appropriated must realize that artistic works, unlike most other products, are not created solely for financial gain, and allow their works to be transformed by others. Copyright laws in the United States and elsewhere err on the side of the author and the market for the existence of copyright.

One problem with copyright, depending on the media, is that it can create barriers to sharing material between artists. For centuries, appropriation was encouraged as a learning tool. As technology has allowed for more seamless appropriation, we have begun to see the darker side of copyright. Instead of promoting the progress of science and art, as it was implemented for in the first place, it can be and has been used as a means of maintaining a monopoly over a creative work for a very long time. Alternative licensing methods can be used, but eventually, artists or perhaps even citizen-consumers will need to see if there can be changes made to the system itself.

As I work to complete my *Eight Ways* project, I have learned a lot about appropriation of life. I already knew about the ethical and moral boundaries, but I did not realize that as soon as a person steps outside, most of their privacy rights have been taken away. And most importantly, I have learned that I will use a Creative Commons license on my project. The project was built on the inspiration of others. I would be honored if it could inspire somebody else.

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