

**COPYRIGHT ISSUES ABOUT PROSUMER-PRODUCED  
DIGITAL VISUAL CULTURE PRODUCTIONS**

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**ABSTRACT**

*The way in which culture and society is derived has changed drastically since the expansion of globalisation. The effects garnered by such an expansion have left individual citizens feeling “lost” within a fragmented physical space (Holmes 2005). The Internet and digital technologies have, however, opened an avenue for the discovery of new social networks and communities. Online users have found it possible to navigate the fragmented state of the physical world by engaging with online networks of like-minded users. Video sharing sites in particular give users the opportunity to interact with mainstream culture, while simultaneously offering them the chance to broadcast their own renditions of culture. Problematically, these videos are often seen as infringing on traditional forms of copyright as video creators often utilise various forms of mainstream mass media, and re-mix them to formulate their own alternative narrative. This article, however, explores the importance that such videos can play in terms of cultural development within postmodern society, while simultaneously advocating the need to re-think copyright practices in order to not stifle the continued development of culture*

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## INTRODUCTION

Information communication technologies such as the Internet have revolutionised the way in which society forms both community and culture. The expansion of telecommunications, with the aid of globalisation, has re-conceptualised the ways in which community is derived (Holmes 2005), leading to the creation of an independent online culture which, like typical models of individual societies, has developed its own set of specific social rules and norms (Friedman 2006).

As one witnesses the shift from analogue media to digitalism, so too is it possible to note a change in the cultural practices of media consumers. Digital media requires audiences to produce their own unique individualised content in order to navigate these new online societies, resulting in what some writers have termed a “prosumer” culture (Marshall 2004; Tapscott & Williams 2005). More and more products require audiences to construct and maintain their own unique visual experiences, especially within the realms of cyberspace. Internet sites such as YouTube epitomise this type of behaviour by “allowing users the opportunity to broadcast their own various forms of digital video ranging from eyewitness quasi-journalistic coverage of real events, through personal videos of family occasions, to purely creative output” (Pitcher 2009: 1). The latter, however, is of most interest as users engage with and appropriate a wide array of mainstream popular culture such as television programmes, movies, animations, sound, and photographs in order to create their own personal and alternative renditions of culture.

This practice has been lauded by digital enthusiasts as a new creative platform from which media consumers are able to display and broadcast aspects of their creativity and cultural viewpoints (Friedman 2006). Simultaneously, however, intellectual property rights activists question the validity of such consumption, often citing that it undermines and infringes on laws which aim to protect traditional creative artists (Wirtén 2004). This article argues, however, that this type of appropriation is an important aspect of cultural production within postmodern digital society. It will explore how the increased interactivity of digital media has created a new outlet for creative development by utilising various online videos from YouTube. In doing so, it will investigate how the appropriation of mainstream media is vital for the continued development of culture, especially in terms of elevating the development of nations such as South Africa into the global market, while simultaneously highlighting the shortcomings of traditional thought surrounding intellectual property protection.

## WHAT IS INTELLECTUAL PROPERTY?

The term intellectual property is generally associated with three main branches: copyright, trademarks and patents. Collectively, these concepts are understood as the protection of the application “of ideas and information that are of commercial value” (Cornish 1989: 4), and can appear in many different forms, such as inventions, company logos, branding, mathematical formulae and artistic creations. However, while each branch has its own distinct features and definitions this article restricts the

definition of intellectual property only to refer to copyright as it is the most relevant to visual culture.

Copyright, as with all intellectual property laws, is territorial in nature, which means that it is under the jurisdiction of individual governments (Cornish 1989). As such, it differs accordingly between each nation state and cannot be adequately defined within a global context. This is highly problematic if one considers the global expansion of digital media, especially in regard to the borderless and ubiquitous nature of the Internet. However, while copyright law differs from one country to the next, it is always based on the same fundamental principle: to protect the fiscal and moral rights of creative artists (Cornish 1989). South Africa especially aims to “guard an author’s work from being distorted, mutilated, or modified in any way which could damage their dignity or reputation” (Pitcher 2009: 41). This clause works in tandem with the more general understanding that copyrights are put in place to protect an artist’s financial earnings. The guarantee that the work of a creative author is protected from malicious acts of distortion aids in cementing the reputation and value of an artist’s work in the eyes of the public. Overall, the main impetus of copyright protection is directed toward allowing an artist a monopoly over their work for a limited period of time in order to create an incentive to encourage further creative output. However, this is only one of the features which underlie the historical formation of copyright.

Firstly, intellectual property protection was developed during the nineteenth century as way in which creative authors were able to gain some form of independence from both patronage and publishers (Wirtén 2004). Granting artists a monopoly over their work meant that they were no longer financially dependent on traditional regimes of power, and as such were given more freedom in terms of what they could or could not produce. Secondly, and possibly more importantly, copyright was developed as an instrument for progress in order to propagate an informed citizenry (Vaidhyathan 2001). Through the creation of incentives, authors are encouraged to develop new innovative ideas which aim to promote the development of knowledge. Modern thought, however, appears to have forgotten these important foundations and seemingly concentrates only on the monopolistic control which copyright protection entitles. During the course of the twentieth century, copyright has emerged as a tool which protects the “rights of the publisher first, authors second, and the public a distant third” (Vaidhyathan 2001: 11). Consequently, the protection of intellectual property is not enforced to protect creative artists, or to allow them an incentive to produce, but instead it has become “an incentive to bribe publishers to invest in finding authors” (Litman 2001: 104).

### **THE IMPORTANCE OF FREE KNOWLEDGE**

Helge Rønning (2006: 25) argues that “information needs to circulate easily in a liberal democratic polity in order to facilitate innovation”. In a country like South Africa, which is plagued by the inequalities left behind from its apartheid history, it becomes important to develop public knowledge not only to create an informed society, but also to elevate the South African consciousness to global competitive standards. Therefore, one can argue that a site such as YouTube which encourages the free exchange of ideas

and creative output assists in creating such a platform, whereby users are given the opportunity to firstly, broadcast their creations, and secondly, gain exposure to global ideas and innovations, thereby promoting the development of the knowledge economy (Aufderheide & Jaszi 2008).

Traditionally, the control of knowledge has been dictated by the intellectual and financial elite within society. As such, the protection of intellectual property in modern times has created an environment in which that which has been created is rewarded, and that which is still to be discovered and crafted is limited. Academic research for example, is strictly controlled by publishers who allow only a privileged few access to information. Christopher Merrett (2006) argues that academic publishers worldwide aim to make huge financial gains from research administered by tertiary institutions. These publishers then sell intellectual works back to the public at highly inflated prices, which often leads to extensive problems in terms of knowledge development within poorer nations which are financially unable to access such information – even in institutions of higher learning. Global institutions such as the World Intellectual Property Organisation (WIPO) have begun to acknowledge this problem, and subsequently have tried to promote special concessions, in terms of intellectual property law, to aid in building the knowledge economy of developing nations (Cornish 1989). One such concession proposed that developing nations had the right to decrease the terms of copyright in order “to authorise translation into their national languages; to authorise publishing for educational and cultural purposes and to exclude from the scope of infringement reproduction for teaching, study or research” (Cornish 1989: 252).

Developed nations, however, believe that such concessions open avenues for “legal piracy” to emerge and have attempted to block many allowances created to empower the knowledge economy of developing nations (Pitcher 2009). Robert Ostergard (1999) explains that the action which developed nations are trying to take could be viewed as a breach of human rights. Information which is needed to procure the basic conditions set out by the Universal Declaration of Human Rights, such as medical care, social services, food and housing should be openly and consistently exchanged and built upon by both developed and developing nations. Limiting the scope of information available to developing nations creates even greater dilemmas for global markets, because “as under-developed countries seek constant foreign assistance and investment to sustain their economies, they, in turn, weaken Western economies” (Pitcher 2009: 57). Added to this, the isolation of developing nations from the global intellectual market entrenches Western ideology as a dominant global culture, thus undermining many other cultural viewpoints, and inevitably destabilises any prospect of a true global economy.

It is understandable that developed nations are reluctant to relinquish the dominance which they have assumed within the global market. However, as Ostergard (1999) proposes, global entities need to acknowledge that different forms of intellectual property need to be utilised and protected in varying ways. Problematically not all

intellectual property constitutes the same value in terms of the progression of developmental structures. For example, it can be argued that scientific research is of far greater importance than the latest Hollywood blockbuster; subsequently, definite lines need to be drawn by international organisations in order to determine the difference between intellectual property which is needed for developmental advancement, and that which is wanted for personal enjoyment. However, intellectual property utilised for personal enjoyment can generally also be viewed as tools for cultural understanding and development; therefore, it becomes difficult to proclaim that they do not also have a role to play in the development of a society. Overall if one was to restrict the use of copyrighted materials within society it could quash an emerging phenomenon full of potential for democratic society (Aufderheide & Jaszi 2007).

### **RE-THINKING COMMUNITY AND SOCIETY**

As the Internet expands and the role of new media becomes a more intrinsic element to social discourse, it is inevitable that we become immersed in a technologically extended society. Traditionally society is understood as the combination of communities which assist in legitimising the narratives of civic discourse (Holmes 2005). However, with the advent of globalisation and an increase in populations, it becomes possible to note that “the so-called ‘dynamic density’ of society [has begun] to change” (Holmes 2005: 168). Jan van Dijk (2006) attributes this to a number of factors which have fragmented the traditional constitutions of community, such as shifting economies, diasporic communities, the decline of the nation state and cultural hybridisation, to name a few. This fragmentation has resulted in what can be termed ideological flux as norms and values constantly change and are re-defined by individuals, thus creating a crisis as to how the individual is integrated into society: “individuals whose roles were once highly defined, must increasingly become more self-forming and self-active, without the programmed and government contexts which might give either ‘instrumental’ or ‘value rational’ kinds of action any kind of solid meaning” (Holmes 2005: 171-172).

Émile Durkheim proposed that the formation of a community created a “conscience collective” in which average members of a single society would share a set of common beliefs and sentiments (Holmes 2005). However, it can be argued that the rapid and continual changes occurring within the physical world has led to the emergence of a “lost community” (Van Dijk 2006: 165), whereby the importance of the conscience collective has fallen away to be replaced by a revered sense of individualisation. As such, the use of online networks has become an important social tool through which one is able to re-discover elements of belonging to a collective. While it can be argued that online communities lack the same depth of traditional modern society, it cannot be denied that virtual communities function as a way of forming “communities of interest” (Van Dijk 2006: 166) in which one is able to extend already existent forms of social capital. It therefore becomes difficult to ignore the importance that online social communities can play within the formation of postmodern society and culture.

Over the years it has been postulated that online behaviour should be investigated independently of offline social behaviour (Baym 2002). The reduction of physical cues

divorces our bodies from our conscious self, supposedly resulting in a multiplicity of identities which free one from the confines of reality. This, however, is a somewhat naïve approach to take. As digital media become more interactive it becomes harder to differentiate offline/online identity or community. We are wholly defined by our physical and mental environment. Even if we choose to reject the baggage which confines us within the physical world our online interactions are still influenced and shaped by our offline persona, standings, and knowledge (Van Dijk 2006).

This relationship is most notable when exploring social networking sites such as Facebook and Twitter, which concentrate on informing one's online community to the events of one's offline day-to-day experiences. Even if an individual does not partake in these communities in the intended way and prefer to adopt the role of a quiet observer, they still do so without the complete anonymity provided by older online social communities. Based on the profiles which one is required to construct, it is evident that most users create an identity which is parallel to the way in which identity is formulated in face-to-face settings (Slater 2002). As with all identity creation, an individual incorporates a multitude of views, values and ideologies into their persona through a variety of daily and lived interactions. Most notably, it has been determined that individuals are most influenced by popular culture as the mass media begin to play a larger role within contemporary society (Aufderheide & Jaszi 2008).

This argument leads one to deduce that the construction of an online community is shaped by the identities of those individuals who have chosen to partake within a specific online network. Simultaneously, however, one cannot ignore the various structures within virtual communities which have also had an impact on how online culture is constructed. Each network, as with any social grouping, will have its own set of rules and regulations which govern the way in which users interact. It is dependent on the user as to whether or not they choose to abide by these norms and combine their individualism within the confines of such a structure. More importantly, however, is the realisation of online users that they have the ability to interact with and make direct comment on the culture with which they are so interwoven.

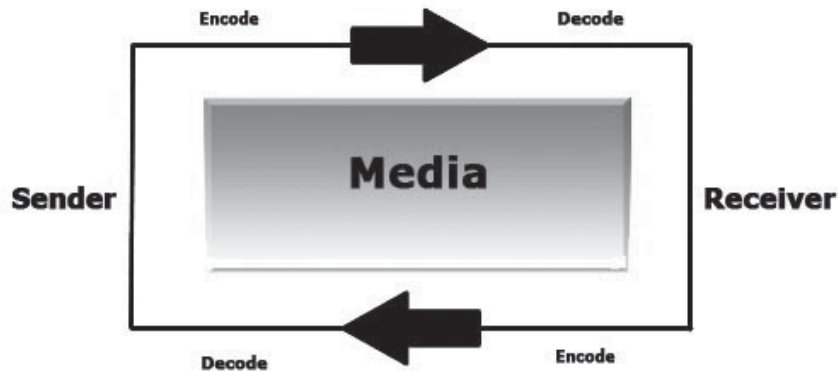
### **BUILDING CULTURE THROUGH PARTICIPATORY MEDIA**

Online networks create open platforms which users are able to both consume and interact with a variety of media forms. This newly emergent consumer has been termed a "prosumer", whereby the consumer of new media also has the ability to impact the way in which it is produced (Marshall 2004; Tapscott & Williams 2005). Traditional models of communication are broken down as the communication of messages no longer cease after they have been received. Instead what emerges, as illustrated in Figure 1 below, is a continual cycle of communication, whereby the message is continually deconstructed and reconstructed between sender and receiver. Based on the above discussion, one can argue that this type of communication has become an important function within the fragmented world of postmodern society as individuals try to navigate and make sense of the changing nature of culture. This type of participatory media has, however, created a number of problems in terms of copyright



and copyright protection, especially if one investigates the emergence of online file and video sharing.

**FIGURE 1: A CONTINUAL CYCLE OF COMMUNICATION**



YouTube is one such site which has become synonymous with copyright theft as users upload large pieces of mainstream media, as well as utilising and combining these pieces to manufacture their own alternative videos known as video mash-ups. This unique form of participatory media, however, has been defended by many users and writers who claim that this type of production is protected by the doctrine of fair use (Tushnet 2007). Legally, fair use is an exception clause which allows one to make unauthorised use of a copyrighted work provided that “their work adds new insight into the material to which it refers” (Pitcher 2009: 60). At times, it may be difficult to ascertain how video mash-ups do in fact abide by this, but as one explores the examples to be discussed later in this article, it does become evident that they can often provide important insight into culture itself.

As already discussed previously, new media technologies give users the opportunity to share and collaborate toward creating an online identity with which to interact. It only stands to reason then that in a world which is defined by the media which we consume, individuals manipulate and collaborate videos in an attempt “to express their own identities through association and transformation” (Aufderheide & Jaszi 2008: 6). Participatory video ultimately allows users the opportunity to express fully who they are by displaying that which has shaped their overall being. Therefore one should question how it is possible to copyright, and grant a monopoly, over something that moulds persona, and is so intrinsic to postmodern society.

Some have argued that participatory communication within the online realm has helped create vast imagined communities with whom individual users are able to interact (Howard 2008). By doing so, users are required to find their own unique vernacular with which to navigate this new society. There are a number of different ways in which

users are contributing to the “multiplicity of voices speaking in the non-institutional discursive spaces of quotidian life” (Howard 2008: 493). One of the most evident ways that this is being achieved is through the process of digital mashing, and their display within sites such as YouTube. Some may argue that these hybrid forms of media are merely gross mutilations of popular culture; however, before one begins to criticise the action of users, one should acknowledge that this type of hybridisation has become a natural occurrence within most aspects of digital life. Technology itself has become hybridised (think of the convergence between cellular phones, digital cameras and personal digital assistants to create the Blackberry); therefore it only becomes natural that that which digital technology communicates becomes hybridised (Bolter 2006). As Henry Jenkins (2006: 243) explains:

Convergence does not depend on any specific delivery mechanism. Rather, convergence represents a paradigm shift – a move from medium-specific content to content that flows across multiple media channels, toward the increased interdependence of communications systems, toward multiple ways of accessing media content, and toward even more complex relations between top-down corporate media and bottom-up participatory culture.

Participatory media should therefore be viewed as a way in which audiences consume and interact with media, positively transforming the structures through which mass media is controlled, rather than maliciously aiming to infringe upon intellectual property rights or undermining the moral rights of creative artists. Some, however, may argue that this type of transformation aims to destabilise old systems of regulation and power through a subculture concerned with undermining social order (Hills 2009). But this argument is rather redundant if one considers that similar issues were raised when media such as television, film, and printing were introduced into the mass market. It has become commonplace that new forms of media challenge the existing status quo, and that mass culture shifts and re-organises accordingly. A site such as YouTube is merely extending this history by providing a platform through which user collaboration is broadcast.

### **CAN PARTICIPATORY MEDIA BE CULTURALLY SIGNIFICANT?**

As stated earlier, online users have recently begun engaging in what is commonly known as “digital mashing”. This practice is a process whereby media consumers “cut” various pieces of media, such as images and sound, and remix them into a new coherent whole narrative. This is not an entirely new practice confined to the realms of the Web and stems from early forms of rap music during that late 1980s and early 1990s. During this period rap artists would often take the melodies of well-known songs and integrate it with their own lyrics, such as Vanilla Ice’s *Ice Ice Baby* in which he used the musical soundtrack from Queen’s *Under Pressure* to underline his lyrics. Many critics lauded this practice as a creative “new montage of sound” (Vaidhyanthan 2001: 15) and as an important fusion of popular culture never seen or heard before. However, as this newly emergent art form began to gain popularity with audiences it also began to gain notoriety among music corporations and copyright activists.

*Copyright issues about prosumer-produced digital visual culture productions*



At this point in time, music artists were not consulted or paid for the use of their music in these new montages. Rightly so such work was deemed to be illegal as rap artists aimed to directly profit from the artistic work of others. This activity has, however, inspired many media consumers to create their own unique renditions of popular media in which they utilise the music from one or more music videos, and then incorporate the lyrics and images from another. It could be argued that this too is copyright theft as users have merely copied two or more established videos and joined them together. Like early rap artists they have not compensated original artists in any way, but unlike the rap artists of the early nineties, online users are not aiming to directly profit from their work. As each example below demonstrates users instead try to create intertextual links between various forms of media in order to manufacture their own distinct form of social commentary on various forms of popular culture.

One of the best examples of this can be seen in the video *Smooth Buster*, in which Michael Jackson's *Smooth Criminal* video is infused with the melody and a clip from the *Ghostbusters* title track (HaloStuff1 2007: online). Initially, this clip begins with the *Ghostbusters* characters, and the lead singer of the *Ghostbusters* video mimicking aspects from the well-known Michael Jackson *Thriller* video.

This video can be interpreted in a number of distinct ways, any of which could justify the apparent infringement of copyrighted material. Firstly, many creators of digital mash-ups are often part of a fan culture who aim to celebrate various performers and aspects of popular culture through digital creations (Aufderheide & Jaszi 2008). One could argue that defining this video as an example of fan culture is a somewhat tenuous claim to make. After all, just placing a music video online does not make one a fan. However, it could be argued that because the creator of this video chose to incorporate clips which make reference to the Michael Jackson *Thriller* video, this particular user is in part celebrating the influence that Michael Jackson has had not only on him as a fan, but on popular culture at large. This is further emphasised by the portion of the clip which shows a young boy emulating Jackson's dance moves, thus demonstrating how Jackson has become an inherent cultural figure (Pitcher 2009).

While it can be claimed that the YouTube user who created this video has utilised large portions of well-known established musical works, there are a number of arguments which can be drawn out by the above discussion to justify their doing so, and in turn, undermine the illegality of producing such a video. Generally, copyright allows a person to utilise the works of others, provided that they are not in any direct competition with the original artist, or that the use of the newer work does not result in any form of financial loss for the original creator (Cornish 1989). Aufderheide and Jaszi (2007) have found that most YouTube users do not place work online unless they are prepared for their work to be shared and copied by other users, thus voiding the argument that digital mash-ups directly compete with established mainstream media. Therefore, it could be postulated that this video was created by a user who was celebrating Michael Jackson as both a performer and artist.

However, it can be argued that this video has “far more intrinsic value in terms of social commentary than mere fandom” (Pitcher 2009: 77). This video was made in 2006, a year after Jackson was embroiled in a legal battle regarding child molestation, an accusation that had surfaced before during the mid-90s. It could be theorised therefore, that *Smooth Buster* is making direct commentary on these issues. In the *Smooth Criminal* video, Jackson is seen as adopting the role of the hero. He stands out in a white suit – a colour generally associated in film with the light, pure character of the hero – as he defends the women in the club from the darkly clad mafia-type men. The words of the song seem to reinforce the notion that Jackson is the hero, as he describes how an intruder attacks the title female character, and how he proceeds to question the nature of her attack in an attempt to avenge her.

Therefore, it can be speculated that, in light of the allegations brought against Jackson, the creator of the *Smooth Buster* video is playing on the irony of Jackson being depicted as a vigilante hero. However, it would not be possible to make this assumption without the inclusion of a number of important elements. Firstly, by juxtaposing *Smooth Criminal* with images and melody from the *Ghostbusters* music video, the creator appears to be highlighting the role that the Ghostbusters play, that of catching and detaining evil spirits. Consequently, one could assume that by combining these images, the creator is playing on the idea that Jackson’s “evil nature” is being “bust” by the authorities. Secondly, the character played by Jackson in the *Smooth Criminal* video cannot be viewed as wholly good, but more as a vigilante-type character with sinister undertones. While Jackson is depicted wearing white, it is still in the same style as the other gangster figures depicted in the video, thus indicating that he is still part of the gangster underworld and embroiled with the associated ideologies.

Finally, the most important element of this video which highlights and reinforces the creator’s notion of Jackson’s sinister and corrupt nature, takes place at the beginning of the clip. As already mentioned, as the video cuts from the shot of the Ghostbusters to Michael Jackson the creator has inserted a brief clip taken from Jackson’s *Black and White* video, in which a young boy can be seen emulating his dance moves. This could be interpreted as a “direct reference to the molestation charges brought against Jackson” (Pitcher 2009: 78). This brief cut is situated moments before the introduction of Jackson, and it can be argued that the emulation of Jackson by the boy is an example of how Jackson has infiltrated the psyche of the child, and demonstrates his influence over the boy and the boy’s body. The video informs the audience of Jackson’s sinister nature by placing him within a gangster underworld, most commonly associated with prostitution and extortion, and as such, it becomes the role of the Ghostbusters to expel Jackson’s corrupting spirit from the boy.

This example demonstrates how this type of video is able to create an important social comment in regard to one of the most affluent figures within popular culture. In light of this, it “becomes difficult to claim that the protection of copyright is of greater importance than the right of the author to make a creative, but valid contribution to the public sphere of cultural knowledge” (Pitcher 2009: 78). Ideally, the Internet is seen to

be a forum for pure democratic discussion and debate, and as such should aim to promote free speech amongst its users (Stallman 1997). If one was to stifle this type of work, and not allow citizens the opportunity to interact with the knowledge that popular culture provides, it would in effect be an infringement of free speech, thus contradicting that which the Internet was originally designed to do. Importantly, however, digital mash-ups also provide a platform for commentary on the construction of culture itself.

The intertextuality between the *Smooth Buster* video and the *Thriller* video has already been demonstrated, but to take this point even further, the *Thriller* video which is parodied within the *Smooth Buster* video was a parody itself in regard to the horror movie industry. However, no one would question the legality of “borrowing” these ideas and structuring them around these mainstream videos because, as Rosemary Coombe (1998) points out, popular culture is based on the understanding of various meta-narratives and intertextual references, without which popular culture would cease to exist as it would lose all meaning.

This argument is further supported when examining the video *Toy Story 2 Requiem* (ExorcizedAngel 2006: online). *Toy Story 2* was made by the Disney digital animation production house Pixar, and as such contains the traditional wholesome family values associated with the Disney brand. However, it has been matched with dialogue from *Requiem for a Dream*, a movie which deals with the effects of various addictions. This immediately undermines the values generally associated with Disney movies, which are further destabilised by the specific dialogue chosen by the creator to work in tandem with the visuals. The most obvious way in which this is achieved is by creating the effect that the *Toy Story 2* characters are swearing, thus subverting the wholesome nature of the Disney characters.

The video begins by taking into account how the various forms of addiction forces each of the characters into a delusional and dream-like world, which ultimately leads to their downfall. Because this is a state of mind, and an experience which becomes very difficult to explain through dialogue, the creator of *Toy Story 2 Requiem* has carefully edited various visuals together in slow-motion, in order to try and create a dream-like atmosphere. Many of the clips which have been edited together during this sequence show the characters falling in some way, highlighting their fall from reality. More importantly, however, a central image in the video depicts the character Woody falling amongst a number of Ace of Spades cards. The Ace of Spades is often referred to as the death card, and as such it can be theorised that “the dream-like state which each character enters leads to death of reality” (Pitcher 2009: 89), which in turn results in their own tragic demise. In addition to the connotation of death, cards are also often associated with fragility, as a sudden failure is often compared to a falling house of cards. This metaphor emphasises each character’s fragile state of mind, and how their world crumbles around them as they fall deeper into addiction-fuelled delusions. This seems to make direct commentary on Disney ideologies by implying that it is only within the dream-like utopia of Disney ideology that one is able to truly “live happily ever after”, and that outside of such dreams the world is a harsh and difficult place.

It must be noted that the creator will assume that those who consume these videos will have a certain educational level of understanding in terms of popular culture and society, especially in South Africa where most users of new media are affluent and well-educated members of society. Therefore, creators have the luxury of knowing that most of their audience will have the cultural understanding needed to negotiate the basic principles associated with popular media. So whilst someone who has general knowledge in regard to popular culture has the capacity to understand the subversive nature of this mash-up, it is only those viewers who have intrinsic knowledge of each media format that will understand the preferred interpretation offered by the creator.

Overall, this helps to emphasise the point that popular culture is shaped by the audiences which engage with it. Users who take uniform media products and transform them into new renditions ultimately undermine the traditional dominant readings and institutions that are responsible for the creation of mainstream media (Pitcher 2009). Consequently, this helps to explain why these institutions are so overzealous in regard to copyright protection – without it they lose control, not only of the media which they produce, but also in regard to the construction of culture, as audiences now have the means to transform it to suit their own needs. The analysis of these videos has shown that media consumers are negotiating the construction of culture through the self-conscious play on established dominant media in order to produce a variety of oppositional readings. This practice could be viewed as the natural progression of postmodern popular culture, in which audiences are continually expected to understand intertextual links between various media forms (Poster 2008). Therefore, mash-ups of this nature are not infringing on copyright, but are merely aiding in the development of meta-narratives, and re-conceptualising the way in which popular culture is created.

### **COPYRIGHT AND NEW MEDIA IN THE 21<sup>ST</sup> CENTURY**

The monumental changes which have emerged in terms of digital interactivity has meant that regular consumers now have the ability to alter any piece of digital information that they have access to. Problematically, this has been without the permission or necessary licences needed by individuals to copy or broadcast such works; subsequently many new artists were not able to publish or broadcast their work. YouTube, however, has given these artists an open platform through which they are able to share their creations with the greater public. Intellectual property activists have cited that video sharing sites such as YouTube are promoting a culture of copyright infringement (Pitcher 2009). YouTube ([www.youtube.com/t/terms](http://www.youtube.com/t/terms) n.d.: online) claims that it merely provides a service, and that it is not the website's responsibility to monitor how users choose to use such a service. Apart from this argument, YouTube also stipulates that users who are reported three times for uploading videos which do not have the correct licences and permissions will have their accounts suspended indefinitely, and have all of their videos, not only the ones to be deemed illegal, blocked from the site.

There are two main issues which underline this practice. Firstly, YouTube relies solely on the reportage by other users of infringing material because, as mentioned, the site

does not patrol what users choose to upload, because realistically it becomes practically impossible to monitor the millions of users (72 million in 2006, according to Weber 2006: online) who use the site. Therefore, this creates an environment which does not actively condemn copyright infringement, and so gives the impression that uploading copyrighted material is fair, provided one does not get caught. This leads to the second problem. Users who have had their accounts suspended are not prevented from re-registering with the site using a different user name, and re-posting the infringing material. As such, users are never actually punished for their actions, and because they do not look to profit from their work cannot be prosecuted by the state (Cornish 1989). Interestingly, Warner Music found that they lost more revenue by not allowing their music to be seen online than if they continued to allow it to be hosted by YouTube. Subsequently, they have ceased attempting to try and shutdown the use of collaborated videos and instead have entered into agreements with YouTube to garner a percentage of the profits taken from in-site advertising which accompany those videos which have appropriated their copyrighted material (Van Buskirk 2009).

## CONCLUSION

Each of the videos discussed have utilised media in a variety of ways, for a number of reasons. However, one common theme which seems to arise is that the creation of these collaborations is driven by two distinct factors. Firstly, many videos seem to celebrate the media from which it has been appropriated in some way, often highlighting those scenes which have made the most impact on society, or that which is the most well-remembered by viewers of popular culture. Secondly, and possibly more importantly, is that users need to require an in-depth cultural knowledge of that which they are utilising. Without such knowledge, each of these videos would not carry the alternate meanings which they demonstrate and therefore could be deemed as copyright theft. However, because the varied interpretations of these videos do in a sense make them new, they themselves are merely contributing to the extension of culture.

One could argue that simply creating new meaning for something does not excuse users from taking the creative work of another for their own personal benefit. Problematically though, if one gauges media history, one would find that most of that which is found in popular culture has been appropriated from some earlier format. Disney, for example, who is one of the most stringent enforcers of copyright, has based many of their characters on old medieval fairytales, such as *Snow White*, *Cinderella*, and *Sleeping Beauty*. Scrooge McDuck, the uncle of the famed Donald Duck, is based on the character Scrooge, unceremoniously lifted from Charles Dickens' classic novel *A Christmas Carol*, and even *Steamboat Willie*, the cartoon which launched Mickey Mouse, was "a direct cartoon parody of *Steamboat Bill Jr.*" (Lessig 2004: 22) – the last silent film made by the comic Buster Keaton. Each of these examples demonstrates that Disney has maintained many of the same storylines which are associated with these characters, and yet they claim to have authorship and full intellectual property rights over their renditions of these non-original creations.



No-one can deny that these characters have become intrinsic figures within popular culture, and it therefore stands to reason that creators today should be given the same allowances to manipulate those creations which have shaped their understanding of society. Social culture cannot grow without direct interaction by those who inhabit it. This becomes even more relevant in today's postmodern world in which cultural identities are becoming more fragmented as national boundaries become less relevant and one is influenced more by the values of popular culture. As such, one cannot deem digital mash-ups as the illegal act of copyright infringers, but should rather acknowledge that it is simply a new way in which popular culture is developed and commented upon.

The initial argument for the protection of copyright was to grant authors a limited monopoly over their work in order to produce an incentive to create more artistic works. And whilst this worked for many years, it became more of a detriment for artistic creation as companies aimed to extend their monopoly periods, so as not to forfeit control of their industries (Woker 2006). However, the idea that artists would not create without some form of incentive seems to have been lost if one examines the massive pool of digital mash-ups within the online realm. Most of these videos have been created, not for money or incentives, but merely out of artistic passion. Users are more interested in allowing their works to be seen, than being rewarded for them. Obviously through the power of the Internet, some do gain fame and can make money from their video, but none seem to set out to do this initially.

Therefore, it becomes possible to argue that the role of copyright has changed from when it was first conceptualised. No longer are artists bound by incentive rules to showcase their work, but instead they have the opportunity to share their work through sites such as YouTube. Copyright, while not redundant, needs to be thought of in new ways in order to protect artists while simultaneously promoting the development of culture. One needs to recognise that mash-up videos, such as the ones analysed, are not threatening the livelihoods of artists by undermining their financial rewards, or even their moral rights. Instead, these creations are providing important commentary on a society which has become deeply indebted to the influence of popular culture. These videos aim to re-conceptualise mainstream media, and in part try to make other users re-think aspects of the world in which they find themselves interacting.

Copyright has become a law which is so focussed on allowing those in power to maintain control over the development of culture, that one forgets that it was originally formulated to propel culture forward through the advancement of ideas. Gaining financial reward was only a small part of the process, and aimed to protect individual authors, not multi-billion dollar corporations. However, what has emerged from modern society is the protection of these giants so that their ideologies and belief systems stay at the forefront of society. The introduction of sites such as YouTube, which allow users to question, change, and manipulate these ideals, has led to a contentious hegemonic battle in which dominant culture is being reassessed, and ultimately redeveloped by users. No longer are consumers of media passive in its



production (Marshall 2004). Instead, media consumers have become their own producers of content as well; however, one cannot expect any creative depth in production unless Internet users are given some leeway in terms of interacting with that which already exists within cultural products. As such, copyright experts and lawmakers need to be made aware of the importance that online user/media collaboration plays in the development of both popular culture, and in societal culture. If Internet users are not allowed to utilise that which permeates their everyday existence, it undermines free speech and ultimately creates a totalitarian rulership over the formation of society, culture and identity.

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