

# Aram Sinnreich, Mark Latonero & Marissa Gluck

## ETHICS RECONFIGURED

How today's media consumers evaluate the role of creative reappropriation

*In recent years, 'configurable' technologies such as the Internet-connected PC, cheap and accessible media-editing software, and writeable media drives have enabled a profound shift in the agency of media consumers, opening up a vast grey area between traditional production and consumption. This shift has given rise to a host of new media practices and products, such as mash-ups, remixes, mods, and machinima. However, the cultural discourse about media practices are still mired in the 'black and white' ethics of the twentieth century media distribution, evidenced by 'piracy' and 'theft' debates. In this paper, we examine the self-reported attitudes of nearly 1,800 American adults and draw on the personal interviews with dozens of configurable music practitioners to discover what a new, and more appropriate, ethical discourse of configurability might look like. Data suggest that the new practices of cultural appropriation are both reaffirming and challenging the age-old evaluative criteria.*

**Keywords** digital arts; remix; appropriation; cyberculture; ethics; music technology

Recent advances in communication technology, including, but not limited to, developments such as the personal computer, Internet connectivity, accessible media-editing software (e.g. GarageBand), peer-to-peer file-sharing software, time-shifting devices (e.g. TiVo), portable media devices (e.g. iPods), portable communication devices, and writable high-capacity media (e.g. DVD-RWs), have enabled a paradigmatic shift in the quality and range of relationships individuals may build with one another, with media organizations, with the products distributed by those media organizations, and with other forms of creative expression. The social dimension of this fundamental change is often referred to as *remix culture*, a term generally attributed to Lessig (2004, 2008), after

the practice of ‘remixing’, or re-editing media files such as songs. However, for reasons we will discuss shortly, we feel that the terms *configurability* and *configurable culture* are more accurate and inclusive ways to describe the technological and social aspects of this new paradigm of digital culture.

The power and plasticity of configurable technologies have enabled a range of new social and cultural practices to emerge in recent years that belie the stark ‘black and white’ discourses we have traditionally used to understand and describe cultural production in the modern era. Dichotomous concepts such as artist/audience, art/craft, and, perhaps, most importantly, production/consumption simply do not apply in obvious ways to the emerging forms and practices such as mash-ups, remixes, machinima, software mods, photoshop-ping, virtual worlds, and user-generated content in general (Aufderheide & Jaszsi 2007; Deuze 2006, 2007; Gunderson 2004; Lowood 2006; Ondrejka 2004; Shiga 2007; Taylor 2006). If the old model for production consisted of binary black and white, the configurable culture is prying apart these polarities and colonizing the rapidly expanding ‘grey area’ between them.

Even so, as we will discuss further below, the laws, ethics, and institutional regimes that surround the cultural production are still mired in the dichotomous discourse of the nineteenth and twentieth century cultural production, producing a tension between the normative practice and our dominant systems of cultural evaluation. This tension has reached a crisis point, evident in historically anomalous events such as the mass litigation by the American recording industry against more than 40,000 of its own consumers,<sup>1</sup> and the invocation of the ‘eighth commandment’, i.e., ‘thou shall not steal’ (presumably in lieu of the more recent and binding American law) by a US district court judge’s ruling on a high-profile music sampling lawsuit (Clarida & Bernstein 2003).

Thus, our aim in this article is to examine the emerging attitudes among both the general public and the sample-based musicians regarding configurable practices, and to identify the seeds of a new discursive framework in their efforts to adapt traditional, ethical concepts to match their new reality. Or, to put it more simply, we are interested in whether and where lines can be drawn in the grey area.

## **Configurable culture and technology**

What, if anything, is new about configurability? As theorists from Williams (1958) to Hall (1980) have argued, culture by definition is plastic and permutable. No two people express themselves or understand the world identically, and everyone changes his or her perspective over time, largely in response to the people and the expressive materials he or she comes in contact with. It logically follows that each of us, in our own way, contributes to the ongoing reconfiguration of culture, whether through a calibrated cultural intervention (e.g. art,

rhetoric, resource investment) or simply through the quotidian, and largely unconscious, rituals and interactions of daily life.

What differentiates this rapidly ascending paradigm from previous epochs is the reciprocal interdependence between the communication technology and culture, to the point of symbiosis; in other words, they may no longer be understood in the absence of one another. To put it in another way, the power and scope of communication technology have expanded to the point where technologically mediated expression and interaction have come to approach, and in some cases, to rival, the fluidity, subtlety and power of face-to-face communication. Although research aimed at directly measuring 'presence' and other experiential attributes of the emerging media can only hint at the enormity of this change, we may find additional evidence for it by cataloguing the unique qualities of these new, transformative technologies and by examining the new social behaviours and mores that both exploit them and help to influence their development.

These fundamental changes in the quality of media technology and the nature of mediated behaviour are more gradual and emergent than sudden and immediate. Clearly, society has coevolved with the communication technology from pre-history to the present day, and never in a linear or predictable way. Other scholars have chronicled the social changes marked by the birth of language (Dunbar 1998), the emergence of writing and literacy (Ong 2002), the development of the printing press (Eisenstein 1979), and the mechanical and electronic storage and transmission of information (McLuhan 2001), to name but a few milestones.

Similarly, many elements of configurable culture have existed for generations, from the photographic collage and *musique concrete* experiments in the art world of the early- to mid-twentieth century (Taylor 2001), to the *samizdat* cassette tapes of pre-Perestroika Soviet culture (Telesin 1973), to the dub plates, sound systems and 'versions' of 1960s Jamaican music (Hebdige 1987), to the Choose-Your-Own-Adventure genre of children's literature in the 1980s.

We could continue to list such historical antecedents to configurability for some time. Yet the configurable media experiences of the present day clearly outnumber, overpower, and outpace any of these examples by orders of magnitude. And, most importantly, the ease-of-use of today's creative technologies and networked organization of today's communications platforms ensure that the tools of media configurability are accessible to hundreds of millions of interconnected individuals. As a result, we have a media and communications system that is historically unique in its global scope, instantaneity, archivability, permutability, and decentralized infrastructure.

The net effect of these developments in communication technology is a system within which expression itself, recorded and stored within the distributed nodes of an ever-growing and ever-changing network, joins language and other forms of symbolic and metaphorical representation as a vital element of the expressive palette. There can be little question that this shift enables an unprecedented plasticity to those with access to configurable technologies (every

cultural artefact can be used by anyone, in any way, to create new cultural artefacts of any kind) and recursion (expression becomes expression becomes expression), drastically expanding the locus of expressive possibilities. We are tempted to invoke a metaphor commonly used in software circles to describe a drastic enhancement in the toolset or interface for a given program: upgrading from a box of eight crayons to a box of 128. In this case, a more appropriate metaphor would be something along the lines of upgrading from the abstract concept of 'colour' to a box with an infinite number of crayons in it.

The social consequences of this shift to a configurable communications infrastructure, and the uses to which we will eventually put these new tools for creative expression, are far from certain. As communication scholars have long argued, new technologies are shaped by social actors and do not necessarily require specific uses (Lievrouw & Livingstone 2002; Mackenzie 1999; Mackenzie & Wajcman 1999; Williams & Edge 1996). Even technologies designed and distributed explicitly for a given purpose are routinely applied to tasks far afield from the intentions of their makers (as when we use a cigarette lighter to open a bottle of beer, or an electric power line as a conduit for Internet connectivity). Generally, society finds its own uses for new technologies, and helps to shape the future direction of technological innovation by doing so. In case of configurability, the holistic infrastructural change has been an emergent consequence of a myriad of smaller, more purposeful changes; the net result would have been difficult or impossible to predict solely on the basis of one subcomponent of the larger process. Yet it is already clear that configurable technologies have given rise to a multiplicity of new cultural practices running the gamut from art to communications to business and marketing.

### **Beyond 'remix culture'**

Several theorists and commentators have attempted to grapple with the scope and consequences of these changes in recent years, by integrating these new cultural practices into some larger frame of reference. 'Web 2.0' – the popular, albeit vague term (Madden & Fox 2006; O'Reilly 2005) – is an often-deployed catch phrase describing the dramatic rise of user-generated content distributed via online social network technologies. Jenkins's 'convergence culture' (2006) incorporates the participatory and collective dimensions of user behaviour across multiple media platforms. Both Web 2.0 and the participatory dimensions of digital culture have also found its critics (Peterson 2008; Sholtz 2008) who find the promises of freedom and democratization inherent in accompanying discourse problematic.

Similarly, we believe there is limited value in the concept of 'remix culture', a term largely credited to Lessig (2005, 2008), which he uses to describe a creative environment wherein the ability to edit and redistribute mediated

expression – such as audio and video – is democratized as a result of lower costs and lower barriers to expertise.

Lessig downplays the culturally disruptive potential of new media technologies, evidently for rhetorical purposes. His legal advocacy for ‘thinner’ copyright protection and a more expansive creative commons is premised on the notion that remix art simply uses new tools to do what’s always been done – namely, to put one’s own spin on previously existing cultural ideas and creative expressions. In his words, ‘remix in art is, of course, nothing new. What is new is the law’s take on this remix’ (Lessig 2005). Manovich makes a similar claim, arguing that ‘the two kinds of remixability [symbolic and technological] are part of the same continuum’ (Manovich 2005).

Although we agree wholeheartedly with Lessig’s call for a reexamination of intellectual property law and a legal recognition of the right to remix, we must disagree with his and Manovich’s claims of continuity between past and present cultural practices. Riffing on a melody written by someone else using a saxophone or piano is a fundamentally different process than chopping up a recording of someone else’s rendition of a melody and then resequencing it to produce your own melody using computer software. To be sure, the sense of cultural give-and-take of participation in a larger dialog, remains. But a vital degree of abstraction – a buffer, if you will, between the participants in the dialog – has been removed. The locus of action is no longer limited to the *idea* of the music, located within conceptual mechanisms such as melody, chord changes, or composition. What is acted upon in these new practices is the musical *expression* itself, the indexical codification of sound waves in a fixed medium. Yet, in a configurable technological environment, thanks to the universal language of 1s and 0s that constitute digital signal processing and global communications, these sound waves are as malleable and distributable, and nearly as universally accessible, as music’s conceptual aspects were in the days of analogue media.

To put it in a slightly different way, the processes of cultural digestion, assimilation, and reformulation, which were historically limited to the confines of our own minds, have been externalized. They now take place in plain sight (or sound), where we can experiment with cultural permutation phenomenologically and collectively via technological interface, rather than simply letting them reverberate within our mind’s eye (or ear).

Another point on which we differ somewhat with Lessig is the question of scope. He presents the new communications infrastructure and toolset primarily as a boon to *production*, suggesting that the democratization of access to the means of creative expression will suddenly turn every willing consumer into a producer. However, he also evinces some ambivalence about these claims, referring to the new generation of musical remixers as ‘a whole host of “composers”’ (Lessig 2005), using quotation marks as a tacit qualifier (we may *call* them composers, but perhaps they are not really, he seems to suggest).

Manovich (2005) is more willing to examine the impact of new technologies on *consumption*, observing that cultural artefacts such as music and film have become increasingly ‘modular’ and ‘granular’, cut down into chapters and songs instead of movies and albums, thus allowing them to be accessed and used in novel recombinatory ways by end-users.

In our opinion, neither scholar addresses what seems to be the larger picture here: namely, that new technologies do not simply enhance the preexisting practices of cultural production and consumption; they help to undermine the producer/consumer dichotomy itself (Bruns 2008). The question of whether cultural production and consumption constitute a binary opposition, or simply exist at opposite ends of a long and fluid spectrum, was effectively moot during much of the nineteenth and twentieth centuries. If any vast region of grey area lay between the two poles, it was inaccessible to most members of the society because of the limits of commonly available media technologies. With the emergence of configurability, however, we have seen a rapid colonization of the grey area between consumption and production, and an explosion of new cultural practices that range from what a real-estate broker might refer to as ‘consumption-adjacent’ (e.g. user-created music play lists; DVD bonus features; videogame character setup and design) to those which might be termed ‘production-adjacent’ (e.g. mash-ups, remixes, machinima, game mods). Such behaviours would not only have been impossible before configurability – many of them would have been unthinkable.

Although our technologies and behaviours have undergone a rapid transformation in recent years, our discursive and ethical codes have not yet caught up, and are still framed in the black and white language of property, theft, appropriation and piracy that informed our ethical and legal codes in the previous century. How can we move beyond this rhetorical impasse? How can we describe a new ethic of configurability that reflects the subtlety and plasticity of these new behaviours, retaining a sense of ethical boundaries without resorting to the binary definitions of a bygone media age?

## Methodology

In order to address these questions, we fielded a survey<sup>2</sup> aimed at capturing both the behaviours and the attitudes of American adults in relation to configurable cultural practices. The survey, which was fielded in July 2006, garnered 1,779 responses, and included both standard, multiple-choice questions and free-form, write-in responses.<sup>3</sup> Respondents were members of a survey panel recruited online by a California-based market-research firm. The sample consisted of US adults from a diverse age range (39 per cent aged 18–34, 46 per cent aged 35–54, and 14 per cent aged 55 and up), significant representation by both genders (27 per cent male, 73 per cent female), a diverse range of

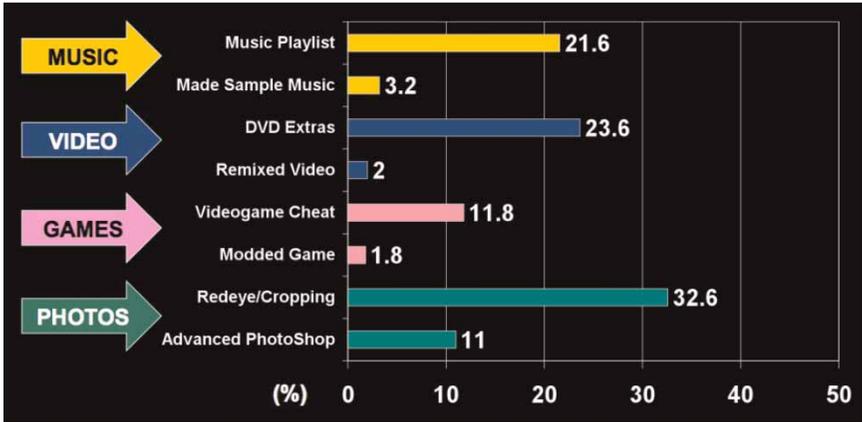
income levels (39 per cent below \$40,000/year, 37 per cent between \$40,000–80,000/year, and 19 per cent above \$80,000/year), as well as all 50 states. Quantitative results were statistically weighted to reflect the US adult population as per the 2000 census.

Additionally, extensive interviews were conducted, primarily in person and over the phone, with configurable music practitioners, music industry executives, and music attorneys. Although we consciously wished to avoid pre-classifying our subjects as ‘producers’ or ‘consumers’, we needed to make sure that we registered data from individuals throughout the production–consumption spectrum. We felt that the national sample might discover the attitudes and behaviours of people more likely to engage in what we have termed consumption-adjacent practices. Our interviews of configurable musicians were intended to focus more on the production-adjacent side of the spectrum. In other words, these configurable musicians represent a category of elites within the broader population; they possess access to configurable technologies and the knowledge and skill to reappropriate cultural products and create new ones for an audience. Because of the stature of these musicians, we determined they were ensconced in configurable culture. Thus, as the interview data below will demonstrate, we felt that these configurable musicians might be most likely to move beyond the consumer/producer binary altogether.

In all, about 60 hours of interviews were conducted with nearly three dozen sources – none of whom had participated in the survey. Most of these interviews were conducted in the Fall of 2006; some were conducted as early as 2003, and some as recently as the Summer of 2008. Although the results of these interviews cannot be quantified, we believe that they present an additional dimension to the qualitative and quantitative data yielded by the survey in our efforts to address the questions and concerns laid out above.

## Results and discussion

The quantitative survey data yielded two points that directly bear upon our research questions. First, the data demonstrate that, for every area of the media, ‘consumption-adjacent’ configurable practices are far more prevalent than ‘production-adjacent ones’. For instance, as Figure 1 shows, 21.6 per cent of respondents reported making music playlists, while only 3.2 per cent had actually produced sample-based songs such as hip-hop or mash-ups. Nearly a quarter of respondents (23.6 per cent) had accessed the extra features while watching a DVD, yet only 2 per cent had ever remixed video on their computers. 11.8 per cent of respondents reported using a secret ‘cheat code’ to succeed at a video game, but only 1.8 per cent of respondents had actually modified video-game software to suit their needs. And although nearly a third of respondents (32.6 per cent) had used simple photo software to crop a picture



**FIGURE 1** Engagement in configurable cultural practices.

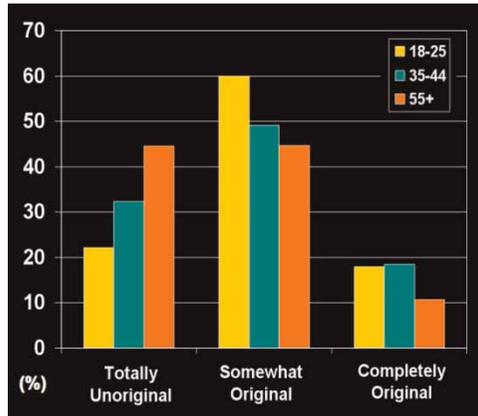
or eliminate ‘red eye’, only 11 percent had ever ‘photoshopped’ a picture, subjecting it to more sophisticated, digital-editing techniques.

These data suggest that many people enter the grey area of configurability as consumers, and that some gradually expand the locus of their agency and expertise, pushing further towards the ‘production-adjacent’ end of the spectrum. This process will be even more apparent in future iterations of this research, when we are able to draw on the longitudinal data from updated versions of the survey.

*‘Consumption-adjacent’ practices outstrip ‘production-adjacent’ ones*

The second major observation we can make from the survey’s quantitative data relates to the correlation between the age and configurable beliefs and the practices. For nearly every question, we fielded about configurable behaviours, awareness of technologies, and attitudes, there was a tendency towards an inverse linear relationship between age and the attribute measured. That is to say, younger people tended to be more aware of configurable technologies and practices, more likely to engage in them, and – most interestingly – more likely to accept the legitimacy of these expressive forms, by viewing remixes and mash-ups as ‘original’ (see Figure 2).

As with all data that correlate variance with age, this raises an interesting question: Can these differences be attributed to a ‘cohort effect’, are they specifically a function of age, or do they simply reflect the social barriers between generations as a hindrance to adoption of innovation? In other words, there are three hypothetical mechanisms that may account for these data. If the data reflect a cohort effect, we can expect the disparities to remain over time, but for the values represented by the chart’s bars to ‘move to the right’ as each cohort



**FIGURE 2** Opinions about configurable cultural practices.

ages and occupies the space previously held by its elders. If the data are simply a function of age, neither the disparities nor the values should change much over time; this would simply mean that younger people have more time and inclination to engage with configurable culture than older people do. If the data reflect social latencies in information diffusion, we would expect the disparities to flatten over time, as configurable innovations diffuse more thoroughly across all members of society. Clearly, resolving these questions is beyond the scope of the current study; like the questions raised by the data in Figure 1, they will be best served by longitudinal analysis.

### *New generation, new attitudes*

Although these quantitative data provide an interesting snapshot of cultural evolution at work and raise some, even more interesting, long-term questions, the most relevant data to our present study came from the write-in responses to the survey. As we analysed the responses, we observed consistent rhetorical and ethical themes emerging from the data. Our observations suggest that respondents are repurposing existing cultural evaluative criteria in innovative ways to describe their developing attitudes towards configurability. Many of these frames of analysis were also deployed by the configurable musician interviewees as well. Thus, in our analysis, we combine data from the group of survey respondents and the group of interviewed musicians. These two groups expressed both overlapping and divergent views, as we will discuss further below.

Through the analysis of all write-in responses and interview data, we found that the respondents and interviewees deployed a set of eight specific criteria to evaluate the ethical legitimacy or illegitimacy of reappropriated content (see Table 1).

**TABLE 1** Ethical criteria employed by respondents.

<i>unethical</i>	<i>criteria</i>	<i>ethical</i>
For-profit	Commercial	Non-profit
Unpermissioned	Legal	Permissioned
Pretension	Authenticity	Referenced
Unoriginal	Innovation	Original
Easy	Labour	Hard work
Bastardization	Moral	Homage
Rupture	Continuity	Evolution

We will offer a sample of representative quotes to help illustrate survey respondents' uses of these emerging criteria.<sup>4</sup> We have organized these categories by prevalence, beginning with commercial and legal, which are arguably the dominant criteria in today's mainstream discourse on remix and configurability. Based on the old proprietary media ethics model, we might expect to find respondents agreeing that remixing appropriated content is simply stealing another's work for personal gain. Yet our data reveal a more nuanced approach. For example, as demonstrated in Table 2, respondents' use of commercialism as a criterion hinges on the question of *financial exploitation*: reappropriated content that is not intended for profit is generally viewed as legitimate, whereas re-appropriated content that is intended for profit is seen as suspect.

Already we see ethical terms such as 'wrong' and 'harm' deployed around the category of commercialization. The practice of selling an unpermissioned remix for profit is not viewed as legitimate, perhaps a carry-over from the romantic ideal of 'art for art's sake', or a less romantic adherence to the capitalist

**TABLE 2** Commercial criteria.

<i>for profit</i>	<i>non-profit</i>
'If you use copyright material for monetary gain, you owe the holder of the copy right'	'If they are not sellin it for profit than whats the harm?'
'Parody is protected. Social commentary is protected. But stealing others' creations for resale is not'	'I personally don't see anything wrong with that as long as it's not used in a commercial way (i.e. to make money from it's use)'
	'If the remixes or mashups aren't sold (the mixer or masher doesn't make any money from anywhere), then copyright shouldn't be an issue'

emphasis on 'exchange value' over 'use value'. Either way, if there is monetary gain, configurable music practices become suspect or at least necessitate a *quid pro quo* ethical relationship in order to achieve legitimacy. Interestingly, though sample-based musicians often work commercially or aspire to commercial success, many of them expressed similar sentiments to survey respondents. As Adrian, co-founder of the mash-up club franchise Bootie, said: 'I think you should be allowed to do whatever the hell you want to do with these tracks, as long as you're not profiting from it' (personal interview, 4 December 2005).

Another prevalent framework borrowed from traditional media ethics is the use of *legalistic criteria* to evaluate the legitimacy of configurable music, echoing copyright concerns and authors' rights to control their works. Survey respondents frequently state that reappropriated content used with permission is ethical, whereas content used without permission is not (see Table 3).

As with the commercial evaluative criteria, respondents use terms such as 'theft', 'right', and 'ethical' explicitly in conjunction with legal evaluative criteria – and often appear to use legal and ethical language interchangeably. Many respondents support the concept of ownership as intrinsic to expression, affirming the notion of art and music as property and the right of authors to grant permission for the reuse of their works. Yet, this criterion opens the door for legitimate reappropriation; remixed content can be considered 'an art form' if permission to use the original work is given or obtained. In this respect, survey respondents differed from the bulk of musicians interviewed. V/VM, a sound collagist based in Stockport, UK, summed up the dominant attitude among sample-based musicians most succinctly: 'I've never had permission to remix anything. I've never looked to have permission. It's not important to me – if I want to do something, I'll do it' (personal interview, 4 October 2006).

**TABLE 3** Legal criteria.

<i>unpermissioned</i>	<i>permissioned</i>
'Utilizing properties that don't belong to you, making changes to that property, doesn't make the new property yours. It's theft'	'I have never done any but would consider it an art form, therefore, any use of existing material would be changed into something new, and would not be plagerizing. I do think getting permission would be the ethical thing to do, though'
'I feel any original material belongs to owner and their rights. Anything copied from it is not right'	'i think that the ownership of music belongs solely to the original composer or maker. Any use thereafter should be only with the written consent of the original owner or maker'

Interestingly, though configurable musicians' attitudes may tend to fall to the 'lax' side of the law, which currently prohibits unpermitted sampling, the attitudes of the respondents discussed above fell to the 'strict' side of the law, rarely acknowledging that legal limitations to authorial privilege such as 'fair use' play any role in their ethical calculations. This demonstrates the problematic interplay between law, rhetoric and ethics; though numerous laws and decisions have openly supported fair use rights, they are typically excluded from the Manichaean stances taken by the members of both pro- and anti-sampling factions. In other words, despite years of established legal precedence, this amelioration between the two extremes does not currently appear in most of the rhetoric surrounding the ethics of configurability.

Table 4 demonstrates another commonly cited badge of legitimacy: namely, that remixed content *acknowledging or referencing the original work* is acceptable to respondents, whereas content seen as pretending to be authentic is not.

Thus, for many survey respondents, authenticity and legitimacy are premised on the explicit acknowledgement of the source materials or 'original creator'. Passing off another's work as one's own – without acknowledgement – smacks of pretension and is tantamount to theft and deceit. Among configurable musicians, this appears to be a more open question. For some, the only way to be 'original' is to acknowledge one's debts to others. As Paul V, a radio DJ who hosts a mash-up show on KDL D 103.1 FM in Los Angeles, explains, if the source

**TABLE 4** Authenticity criteria.

<i>pretension</i>	<i>referenced</i>
'If something is used which is not clearly identifiable as to its creator or owner making it seem to be original art by the mashup creator then I would consider that theft unless acknowledgement is given to the original artist'	'About remixes and mashups, as long as you acknowledge the original creator of item and do justice to his work I think remixes and mashups should be acceptable'
'Very against people just lifting the creative work of others – and likenesses of actors count, because their faces & bodies are used in their work & belong to them, not the public – only slightly altering it'	'A more modern [visual art] example is the shock art of Jake and Dinos Chapman, whose sculptures and images borrow heavily from those of Francisco de Goya. For these artists, the purpose is not to borrow someone else's work and pass it off as their own. The use of these popular images in distorted form is indeed a crucial part of the statement they are making'

materials are obscure(d), ‘it kind of takes away the discovery of how [the song] is different than how I knew it [in its original form]’ (personal interview, 9 August 2006). However, not all sample-based musicians feel this way. As Go Home Productions, a Watford, UK-based mash-up producer, argues: ‘the clever sampling is when they take something and you still don’t recognize it, in its remix form. It’s how you *disguise* it’ (personal interview, 2 October 2006).

Although we do not have room for an extended treatment of the subject, it is important to note that these divergent attitudes regarding the recognizability of source materials are not merely aesthetic or symbolic variations. The aesthetic of obscurity espoused by Go Home Productions is partly rooted in reaction to over-protective intellectual property laws. As Marc Geiger, a Senior Vice President at the William Morris Agency, says, ‘if you cut up the samples fine enough – and many artists I know have done – [it’s] not recognized as a sample, and they get all the money because it’s masked’ (personal interview, 17 November 2006). In other words, the legal and economic dictates of the music industry are forcing configurable musicians to obscure sources that many would otherwise openly acknowledge.

Reappropriated content is also evaluated by survey respondents in terms of its *degree of creative innovation*, as seen in Table 5.

Whether survey respondents support or reject the legitimacy of reappropriated content in the quotes above, newness and/or innovation is consistently held to be the determining factor. Although ‘newness’ is never clearly conceptualized or operationalized, the consensus appears to be that there is some inefable point beyond which theft is reduced mere influence, and reuse becomes ethically permissible. The only apparent difference between the survey respondents is on the question of whether configurable creation – as opposed to more traditional modes of musical culture – may ever cross that threshold.

Although musician interviewees offer a broader and subtler range of opinions and evaluative criteria, the vast bulk of them agree with respondents that innovation is an essential factor in gauging the legitimacy of configurable expression.

**TABLE 5** Innovation criteria.

<i>unoriginal</i>	<i>original</i>
‘I think it’s a sham, done by people who have no original creative ideas of their own’	‘If you are going to create a remix it should be better than the original’
‘People who do this are leaches on the real creative society’	‘I ... would consider it an art form, therefore, any use of existing material would be changed into something new, and would not be plagerizing’
‘Genius is original, not re-used’	

Yet they differ from survey respondents in two key respects. First, they all allow for the possibility of producing ‘new’ works through configurable musical practices. Second, and perhaps more surprisingly, configurable musicians do not tend to share the belief that ‘better than the original’ should be an ethical threshold – mostly, because they believe this threshold is too high. In the words of Strictly Kev, a British DJ who also records under the name DJ Food, ‘occasionally, you’ll get [a remix] that’s better than the original, but that’s pretty rare’ (personal interview, 11 September 2006).

Labour also emerged as an evaluative criterion among both interviewees and respondents. Table 6 demonstrates respondents’ opinions regarding the *value of labour* in configurable production.

Art, it seems, should involve good, hard work. That which is produced easily is less worthy of consumption, whereas new creations are the natural product of strenuous activity. While the equation of labour with worth is hardly new, it is somewhat surprising to discover that this criterion is being used to legitimize remixed content. Such criteria eschew legal concerns about control and ownership, as well as concerns about commercial exploitation; if remixers work hard enough on appropriated content, their subsequent work may be judged as legitimate art regardless of other factors. Or, to put it another way, the Protestant work ethic is shown here to be in conflict with the logic of commodity capitalism. This notion is echoed by many interviewees, as well. As mash-up producer Osymyso argues, conspicuous labour is integral to his aesthetic: ‘I want to see that there’s a labor of love involved, that there’s some sweat involved, because the software makes it just so easy. I like to make it clear that what I’ve done was not done in just two seconds’ (personal interview, 6 October 2006).

Both survey respondents and musician interviewees identify a configurable work’s *relationship to its sources* as another component of legitimacy. As Table 7 shows, respondents appear to reflexively support the European notion of ‘moral rights’ of the original creator,<sup>5</sup> and in the consequent obligations of configurable production.

On the one hand, some respondents believe that rules should be enacted to protect the original content from the threat of bastardization. On the other hand, the act of acknowledgement elevates the authority of the remixer to appropriate

**TABLE 6** Labor criteria.

<i>easy</i>	<i>hard work</i>
‘I think lazy is a word that covers their work. Like adding one letter in a scrabble game to profit from someone else’s ideas’	‘Derivative works only become original creative content in their own right when a decent amount of work goes into producing something new’

**TABLE 7** Moral criteria.

<i>bastardization</i>	<i>homage</i>
'It can be an art, but is a kind of art that may turn into a threat to the creators of the original content if it is not governed in some way'	'As long as you acknowledge the original creator of item and do justice to his work I think remixes and mashups should be acceptable'

the original creator's work, but only if 'justice' is achieved in retaining the moral, spirit or perceived quality of the original author's work. Again, the evaluative criterion is never fully conceptualized, nor could it be; clearly, the question of justice to an original creator or work must be understood as a subjective judgment, rather than an absolute dimension of the new work. Yet, respondents appear loath to allow this emphasis on subjectivity undermine the authority of institutional evaluation; the 'threat' must be 'governed' from on high, to prevent its usurping the absolute privilege of the 'original creator'.

Although configurable musicians tend to be wary of institutional evaluation – especially on an aesthetic level – they also acknowledge the value of homage over bastardization. A good mash-up or remix must do justice to its sources, and those sources must be respected. In the words of Si Begg, a London techno DJ, 'I think it's important to give people credit. I think, in some ways, that's even more important than the money' (personal interview, 31 October 2006).

Lastly, the position of configurability within the *continuity of historical creative practices* emerged as a determining factor in respondents' evaluations of reappropriative work (Table 8).

This criterion was brought to bear both positively and negatively on respondents' evaluations. One perspective is conservative – dredging and mixing up enshrined 'memories' represents a rupture in the established methods of cultural production. The other perspective sees remixing as just another twist in the continuous process of artistic evolution. For their part, many configurable musician interviewees express a desire to be seen as continuous with musical and cultural evolution. They often make this point by citing

**TABLE 8** Continuity criteria.

<i>rupture</i>	<i>flow</i>
'I don't want to see you getting rich by remixing My memories'	'There is nothing new under the sun. Throughout history, art has imitated other art'
'I am from the old school of thought and totally disagree with such stuff'	

artistic influences and comparing their work with historically celebrated work from music and from the visual arts. Frequently cited artists included Duchamp, Warhol, John Cage, and Kraftwerk. As Mysterious D, DJ and co-founder of mash-up club Bootie explains, these comparisons are strategic in nature, designed to assuage the concerns of nay-sayers who believe that configurable practices are too radical: ‘You use what people have already understood and accepted as art. You know, nobody accepted pop art as art when it began. They didn’t believe it was art at all. And now, years later, they do’ (personal interview, 4 November 2006).

## Conclusion

While selected quotations cannot provide the basis for a statistically generalizable assessment of the attitudes and values of a larger population, we believe that our combination of interview data with qualitative and quantitative survey data allows us to make some compelling explanatory analyses.

A new ethics is emerging that treats configurable work and practice as a *sui generis* cultural form, which is judged by its own set of criteria. These criteria of legitimization are composed of categories of judgment (e.g. aesthetics and labour) that stretch back across the centuries, although their applications to new practices are novel and innovative.

We find that practitioners of both ‘consumption-adjacent’ and ‘production-adjacent’ configurable behaviours (e.g. the general population and sample-based musicians) are moving beyond the stark, dichotomous polarities of traditional media ethics and are generating a more nuanced system of evaluation, better suited to the rapidly evolving media and cultural environment. Given the interdependence between aesthetic and social norms and values, we may interpret this as an indication that broader cultural and social binaries – such as producer/consumer, labour/capital, and mainstream/margin – could also give way to more nuanced systems of categorization, as configurable technologies continue to yield new expanses of grey area between them.

This premise is further supported by the degree of overlap and confluence among these discursive categories; most people – even practicing artists – do not consciously compartmentalize their evaluative criteria as we have in our analyses. For example, aesthetics is confused with economics, legality with morality, and so forth. Therefore, to suggest that one discursive framework may change in the face of configurability while another remains intact appears unlikely.

Clearly, these categories we have identified are neither definitive nor comprehensive; the current pace of technological and social change prevents us from achieving the first, and no sample-based methodology could be expected to achieve the second. Nor are they necessarily logical and consistent; for instance,

the idea of labour-harboured value seems problematic in a world where most cultural production is mechanical and, especially in the case of digital expression, marked by the ease of reproduction and distribution. Yet they are more than merely descriptive; given our large and diverse respondent pool and the breadth and depth of our interview data, we feel confident that the discursive categories we have outlined above capture today's dominant modes of ethical discourse surrounding configurable cultural practices.

Finally, this study also suggests that much of today's widespread anxiety towards new technologies and reappropriative cultural forms stems from a deeper, ontological anxiety regarding the uncertain foundation and future of general ethical and normative systems of evaluation. When a survey respondent expresses outrage about having his or her 'memories remixed', it is clear that what's at stake for him or her amounts to far more than merely 'entertainment', or even 'art'. Identity, truth, and power hang in the balance.

We hope that the data we have presented here can provide a benchmark for future longitudinal research by ourselves and other scholars regarding the emerging technologies and changing cultural perceptions. Specifically, we plan to continue conducting interviews with configurable musicians, and hope to field a nearly identical survey in future, charting the growing awareness of, and engagement with, configurable culture, and documenting the shifting attitudes of the general population. Additionally cross-national and inter-cultural research can illuminate to what degree these discursive changes are characteristic of Western culture and society, and what the analogous implications of configurability might be to other populations and places.

## Notes

- 1 This figure was supplied by Ray Beckerman, a prominent US attorney who represents defendants in file-sharing litigations, during a recent, personal interview.
- 2 Officially, the survey was conducted by Sinnreich and Gluck under the aegis of our consulting firm, Radar Research, LLC.
- 3 The free-form responses were prompted by a question worded as follows: 'We welcome your general thoughts about remixes and mashups, as well as any feedback about this survey'. 611 of the respondents chose to answer.
- 4 Because we are focusing on the centrality of language in evaluative criteria, we have not corrected the spelling or grammar of our survey respondents and interviewees.
- 5 Interestingly, this concept of 'moral rights', a foundational premise of much European copyright law, plays a minimal role in the American system of intellectual property.

## References

- Aufderheide, P. & Jaszi, P. (2007) *Recut, Reframe, Recycle: Quoting Copyrighted Material in User-Generated Video*, Center for Social Media, [Online] Available at: [www.centerforsocialmedia.org/files/pdf/CSM\\_Recut\\_Reframe\\_Recycle\\_report.pdf](http://www.centerforsocialmedia.org/files/pdf/CSM_Recut_Reframe_Recycle_report.pdf) (14 February 2009).
- Bruns, A. (2008) *Blogs, Wikipedia, Second Life, and Beyond: From Production to Producership*, Peter Lang, New York.
- Clarida, R. W. & Bernstein, R. J. (2003) 'Defendants win a musical sampling case – now what?', *New York Law Journal*, 21 November, p. 3.
- Dunbar, R. (1998) *Grooming, Gossip and the Evolution of Language*, Harvard University Press, Cambridge, MA.
- Deuze, M. (2006) 'Participation, remediation, bricolage: considering principal components of a digital culture', *The Information Society*, vol. 22, no. 2, pp. 63–75.
- Deuze, M. (2007) *Media Work*, Polity Press, Cambridge.
- Eisenstein, E. L. (1979) *The Printing Press as an Agent of Change*, Cambridge University Press, Cambridge, UK.
- Gunderson, P. A. (2004) 'Danger mouse's grey album, mash-ups, and the age of composition', *Postmodern Culture*, vol. 15, no. 1, [Online] Available at [http://muse.jhu.edu/login?uri=/journals/postmodern\\_culture/v015/15.1gunderson.html](http://muse.jhu.edu/login?uri=/journals/postmodern_culture/v015/15.1gunderson.html)
- Hall, S. (2001) '1980 'Encoding/decoding, encoding/decoding' in *Media and Cultural Studies: Keywords*', eds M. G. Durham & D. M. Kellner, Blackwell Publishers, Malden, MA, pp. 166–176.
- Hebdidge, D. (1987) *Cut 'N' Mix: Culture, Identity and Caribbean Music*, Routledge, London.
- Jenkins, H. (2006) *Convergence Culture: Where Old and New Media Collide*, New York University Press, New York.
- Lievrouw, L. & Livingstone, S. (eds) (2002) *The Handbook of New Media: Social Shaping and Consequences of ICTs*, Sage, London.
- Lessig, L. (2004) *Free Culture: How Big Media Uses Technology and the Law to Lock Down Creativity*, Penguin, New York.
- Lessig, L. (2005) 'Why crush them?', *Newsweek International*, 28 November, p. 48.
- Lessig, L. (2008) *Remix: Making Art and Commerce Thrive in the Hybrid Economy*, Penguin, New York.
- Lowood, H. E. (2006) 'High-performance play: the making of machinima', *Journal of Media Practice*, vol. 7, no. 11, pp. 25–42.
- Mackenzie, D. (1999) 'Technological determinism', in *Society on the Line: Information Politics in the Digital Age*, ed. W. H. Dutton, Oxford University Press, Oxford, pp. 39–41.
- MacKenzie, D. & Wajcman, J. (1999) *The Social Shaping of Technology*, Open University Press, Buckingham, UK.
- Madden, M. & Fox, S. (2006) 'Riding the waves of "Web 2.0": more than a buzzword, but still not easily defined', *Pew Internet Project*, [Online] Available at: [www.pewinternet.org/pdfs/PIP\\_Web\\_2.0.pdf](http://www.pewinternet.org/pdfs/PIP_Web_2.0.pdf) (14 February 2008).

- Manovich, L. (2005) *Remix and Remixability*, [Online] Available at: <http://rhizome.org/thread.rhiz?thread=19303&page=1> (20 July 2006).
- McLuhan, M. (2001) *Understanding Media*, Routledge, London.
- O'Reilly, T. (2005) 'What is Web 2.0: design patterns and business models for the next generation of software', [Online] Available at: [www.oreillynet.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html](http://www.oreillynet.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html) (20 July 2009).
- Ondrejka, C. (2004) 'Escaping the gilded cage: user created content and building the metaverse', *New York Law School Law Review*, vol. 49, no. 81, pp. 81–101.
- Ong, W. J. (2002) *Orality and Literacy*, Routledge, New York.
- Peterson, S. M. (2008) 'Loser generated content: from participation to exploitation', *First Monday*, vol. 13, no. 3–3, [Online] Available at: <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/viewArticle/2141/1948> (26 July 2009).
- Scholz, T. (2008) 'Market ideology and the myths of Web 2.0', *First Monday*, vol. 13, no. 3–3, [Online] Available at: <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/viewArticle/2138/1945> (14 February 2008).
- Shiga, J. (2007) 'Copy and persist: the logic of mash-up culture', *Critical Studies in Media Communication*, vol. 24, no. 2, pp. 93–114.
- Taylor, T. (2001) *Strange Sounds*, Routledge, New York.
- Taylor, T. L. (2006) 'Whose game is this anyway?', in *Play Between Worlds: Exploring Online Game Culture*, MIT Press, Cambridge, MA, pp. 125–150.
- Telesin, J. (1973) 'Inside "Samizdat"', *Encounter*, vol. 40, no. 2, pp. 25–33.
- Williams, R. (1997) [1958] 'Culture is ordinary', in *Studies in Culture: An Introductory Reader*, eds A. Gray & J. McGuigan, Edward Arnold, London, pp. 5–14.
- Williams, R. & Edge, D. (1996) 'The social shaping of technology', *Research Policy*, vol. 25, pp. 865–899.

---

**Aram Sinnreich** (Ph.D. USC Annenberg School for Communication) is an Adjunct Professor at New York University Steinhardt School, in the Department of Media, Culture and Communication. He is also a Director at OMD Ignition Factory. *Address:* NYU, Department of Media, Culture and Communication, Steinhardt School, New York, USA. [email: [aas12@nyu.edu](mailto:aas12@nyu.edu)]

**Mark Latonero** (Ph.D. USC Annenberg School for Communication) is an Assistant Professor in the Department of Communications, California State University, Fullerton. *Address:* Department of Communications, California State University, Fullerton, Fullerton, CA 92834-6846, USA. [email: [mlatonero@fullerton.edu](mailto:mlatonero@fullerton.edu)]

**Marissa Gluck** (M.S. London School of Economics) is Managing Partner of Radar Research, Inc. *Address:* Radar Research, Inc., 1633 N Laurel Ave, Los Angeles 90046, USA. [email: [marissa.gluck@gmail.com](mailto:marissa.gluck@gmail.com)]

---

Copyright of Information, Communication & Society is the property of Routledge and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.