When a 'Remix' Is Plain Ole Plagiarism

Digital technologies make it easier for people to copy the work of other artists—yet the same tools make it more likely for them to get caught.

The messages began rolling in on an otherwise quiet Saturday.

“This is your mural!”

“This is your artwork!”
“Isn’t this your artwork?”

People had noticed that a design by the artist Gelila Mesfin had appeared on the side of an apartment building on the South Side of Chicago, and they wanted to congratulate her. It was as if the image, which depicts Michelle Obama as an Egyptian queen, had been plucked from Mesfin’s Instagram account, blown up spectacularly, and stamped onto brick. At first, Mesfin was thrilled.

“I thought, ‘Wow, that’s kind of cool,’” Mesfin told me. “Someone got inspired and installed it on the wall and everything.”

Then she saw the signature. There was a name on the bottom-right corner of the mural—and it wasn’t hers. On top of that, the artist and urban planner behind the mural, Chris Devins, seemed to suggest in an interview about the mural that the idea was his alone: “I wanted to present [Obama] as what I think she is,” Devins told DNAInfo Chicago, “So she’s clothed as an Egyptian queen. I thought that was appropriate.”

Mesfin was crestfallen. And she was livid.

“Everyone can see it,” she told me. “It’s identical except for the signature. I was very shocked. Someone just took my hard work.”

Devins, however, is perturbed by the suggestion that he stole anything. “I look at it, really, as an after-the-fact collaboration between an urban planner and an artist,” he told me.

Mesfin originally published her digital drawing of Obama to Instagram in October of last year. In November, she published an animated version showing how she made it. (Collier Schorr, the photographer who took the original image, declined to comment via a spokeswoman for the New York art gallery where her work is featured.)
70.7k views  144 comments

Part 2 - the process Part 1 - Forever Queen 📸 Digital drawing on a photo of @michelleobama Maye Angelou - phenomenal woman 💖 original photo - Collier Schorr . . #nubian #blackart #digitaldrawing #phontart #supportblackart #art #illustration #drawing #draw #TagsForLikes #picture #artist #sketch #artsy #instaart #beautiful #instagood #gallery #masterpiece #creative #photooftheday #instaartist #graphic #graphics #artoftheday #phoneart #supportblackart #melanin #African #blackartist @afropunk #madewithpicsart @blackstage_

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Around the same time that Mesfin published the animation, Devins launched a crowdfunding campaign
to raise money for a large mural that would depict Michelle Obama in the neighborhood where she grew up—"to give today's children someone they can literally look up to," he said on his funding website at the time. Back then, he'd never even seen Mesfin's design, he told me. He ended up raising $11,735, according to the site. Here's the mural that Devins eventually installed:
Devins told me that he understands why Mesfin was upset, but also dismissed her concerns as old-fashioned and misdirected. “I was working in my capacity as an urban planner,” he said. “Of course if I was claiming to be an artist, and then I took some other work off the internet and represented it as my own, of course that’s something an artist would be upset about and I understand that. I make no claims on the work.”

Devins wouldn’t tell me precisely how he turned Mesfin’s image into a mural, other than confirming he used paint and worked off a thumbnail of the original image—which he says he found, uncredited, on Pinterest. He says he’s willing to pay Mesfin a licensing fee of up to $1,000 now that he knows her identity. (Mesfin told me she’s asked an attorney to handle the matter.)

But in our conversation, Devins toggled between describing the mural as urban planning and art—which is the very distinction he used to justify what he did.

“This may be in itself a new form of art,” Devins said. “Sort of like an image DJ. I may be thinking more outside the box than the artists who are just sitting there doodling. The bottom line is, I took something and made it real beautiful. [Mesfin] doesn’t know how to do what I did. To get it up on a wall.”

“I do move fast sometimes,” he added. “But it’s a sample. I’m a musician. It’s one sample that I didn’t clear ahead of time quite well enough.”

Questions about the sometimes-blurry line between paying homage and plagiarism are as old as art itself, and new technologies have a long history of complicating this space. “We’re at the place where one digital copy can be made and then copied a billion times,” Devins said. “How do you deal with that? The doodler artists are frightened by this because they can see the future coming.”

Devins seemed to be using the term “doodler artist” as a pejorative, but it’s also an apt way to capture one of the many ways that the internet has collapsed professional designations in creative fields, a force that further complicates the concepts of authorship and ownership.
You don’t need a printing press to be a journalist anymore. You don’t need a museum to be an artist. Web platforms have made it so anyone can distribute anything online. They’ve also shortened the distance between making something and remixing it; between distorting other people’s original work and just copying it outright.

The same tools that enable artists to share their work widely makes it easier for those same artists to get ripped off by outsiders who sometimes profit from this kind of theft. These incidents are especially fraught, too, because of how often the person benefitting is already privileged and powerful. “I cannot name a person of color who has created something viral and capitalized off of it,” April Reign, the managing editor of the website Broadway Black, told Wired earlier this year. But money isn’t the only thing separating collaboration from co-option.

Meme culture celebrates remixing as a central value—yet many popular memes involve exploiting someone in some way. That’s because memes are fundamentally about “people reappropriating things for their own agenda,” the artist Matt Furie told my colleague Adam Serwer last fall. “That’s just a product of the internet.” Furie’s drawing of a frog now known widely as Pepe, was designed to be a “chill” and “good natured” character. Instead, it became a symbol of white supremacy.

Pepe is practically inescapable online, whereas other forms of visual appropriation are harder to identify. Yet social publishing platforms—the same places where stolen work proliferates—also make it easier for artists to find out when their work is lifted. It was on social media that Mesfin learned of Devins’s mural, for instance. And it was online that Craig Robinson, an artist based in Berlin, found out that another artist had apparently copied his designs. Robinson is known for his Minipops, the name he’s given to the subtle, pixelated representations he makes of a wide array of pop culture figures. (A book of his Minipops was published in 2004.)

So he was startled when someone emailed him a link to a New York Times magazine piece about another artist, Elsa Hansen Oldham, who had once cross-stitched his exact designs and was now describing her own designs—which appear to be based on his—without any mention of his original work to the Times.

“So I emailed her,” Robinson wrote in a blog post. “In her reply she acknowledged my influence, told me that she mentioned my influence to the Times... but went on to say that she comes ‘from the school of thinking that art cannot be created or destroyed, only remixed.’ Which is convenient, isn’t it? Very convenient that your school of thinking allows you to piggyback off my idea, my work, my hours and hours and thousands of hours to get yourself a sugary write-up in the New York bloody Times and exhibitions in New York.”

The author of the story in the Times told the newspaper’s public editor that Oldham didn’t actually mention “Mr. Robinson’s influence” in their interview—but also said that he
didn’t perceive that as “a slight from her in any way.”

Oldham, for her part, describes the whole thing as “a bit of an internet trolling episode” against her, she told me in an email. She says Robinson has ignored her emails to him.

“When I first began cross stitching as a hobby, I stitched a bunch of Craig’s designs. I then began to design my own and have done so ever since. My first quilt is where these stitched designs of his ended up. I also stitched an image of him on this quilt, as I have always been forthcoming about the fact that this quilt has his designs on it. It is an homage to his work.”

Robinson doesn’t see it that way.

“I’m not cool with it,” he wrote in his blog post. “I feel like this person has created a career for herself off the back of my work. She may no longer be actively copying my work, but she’s still ripping the style, and would never have got to that place had it not been for copying my work in the first place. It feels wrong. I’m not happy about it.”

Questions about artistic appropriation are evolving with technology, as they always have. How much does a transfer in form—from pixels to thread, or from pixels to brick— influence notions of authorship? And what about cases when the original artist is no longer around to offer consent?

People continue to debate what constitutes fair use of audio in songs. For instance, the estate of a performer who went by the name Messy Mya is suing Beyoncé for using samples of his voice in her song “Formation.” That audio originated on YouTube, where Messy Mya published it before his death in 2010. This potentially matters because determining a case of plagiarism, both legally and culturally, still depends largely on the medium. With text, things are often (though not always) more straightforward than music.

“It is curious to note that the standards don’t seem to apply the same to music,” said Sharon Sandeen, the director of the Intellectual Property Institute at Mitchell Hamline School of Law. “It’s a very controversial issue.”

Judges tend to focus on “the degree of transformation and the nature of transformation” from one iteration of a work to the next, she said. In the case of the Obama photo, there were at least two transformations. First, from Schorr’s photograph to Mesfin’s design—“it’s a judgment call,” Sandeen says, “But there was transformation there. It completely changed, I would argue, the original image, and made it different.”—and then, from Mesfin’s design to Devins’s mural.

“Taking the Instagram to the wall, that is more problematic in my opinion,” Sandeen said. “But I’m not going to say changing the medium isn’t an argument.”
An argument, yes, but not always an effective one. The artist Jeff Koons unsuccessfully used similar logic before a French court, which recently decided his 1988 porcelain sculpture of two naked children was copied from a 1975 postcard featuring a photograph by Jean-François Bauret. Judges ordered Koons and Centre Pompidou, which exhibited a photograph of the Koons sculpture, to pay the equivalent of about $50,000 in damages.

In the United States, the artist Richard Prince held an art installation composed of other people’s Instagram photos—printed and blown up, along with his comments on them. “The biggest modifications to the images,” Lizzie Plaugic wrote for The Verge in 2015, “are the slightly sleazy comments Prince leaves under the photos. Under one of [the musician Sky Ferreira] in a red car: ‘Enjoyed the ride today. Let’s do it again. Richard.’”

“It’s fascinating,” Sandeen told me. “I was at the Broad, in Los Angeles recently, and they actually had one of his works that was more original, and they had this description of him about how he’s challenging traditional notions of IP law. I thought it was hilarious because was that really the purpose of his art? To create case law? Or was he just lazy?”

“I think that as a society we have weird feelings about visual arts,” says Robinson, the Minipops creator. “Lots of people say they wish they could draw, and lots of people get outraged when the price of a logo is made public.”

At least 18 artists have complained that the retail Zara stole their designs, according the artists Tuesday Bassen and Adam J. Kurtz who launched a website aimed at cataloguing the alleged theft. Zara’s response, Kurtz says on the site, was “particularly offensive.”

It’s “very hard to see how a significant part of the population anywhere in the world would associate [these designs] with Tuesday Bassen,” Zara said in a letter Bassen shared online. “Zara’s lawyers are literally saying I have no base because I’m an indie artist and they’re a major corporation,” Bassen wrote in a tweet.
Tuesday Bassen
@tueadaybassen

Companies like @zara make it a business plan to steal designs from indie artists & condescend when you want payment.

5:35 PM - 19 Jul 2016
2,802  2,182

Mesfin, the Obama artist, told me she just wants to let her lawyers handle her complaint against Devins so she can get back to focusing on school—she's studying fashion merchandising at LIM College in New York City. The Chicago mural isn't the first instance in which her designs have been used without her permission.

"It's really hard to track," she said. "I have people messaging me saying, 'I saw your art in a museum.' It's one of those things where you know it's not right but you know it's going to happen, with digital media being the way it is—with everything being so open and so circulated."

Of course, knowing about design theft is one thing. Doing something about it is another. "It's really hard to stop it from happening," Mesfin told me. "People can screenshot anything. And everything is digital."

Everything is digital, that is, until it's not anymore. Robinson's Minipops were turned into a quilt. In one
case, Mesfin says, someone put her Michelle Obama Egyptian queen design on a pair of socks. (“I just laughed,” she said.) And often, even when the digital becomes physical—it crosses back over into the digital realm once again. People are visiting the mural based on Mesfin’s art and taking selfies with it—just so they can share those images with her via social media. Mesfin, who is from Ethiopia, has never traveled to Chicago. “I’ve only seen it through pictures,” she said.

And for Robinson, turning Oldham’s quilted depiction of his own self-portrait back into pixels seemed to be something of an act of defiance. “Here’s a pixel drawing of an embroidered version of a pixel self portrait,” he said, calling it “meta commentary.”

He didn’t have to explain that what he meant was that this was art. And it was his.

ABOUT THE AUTHOR

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