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Control of creativity? Fashion's secret

By David Bollier and Laurie Racine

Film and music industries might heed the wisdom

Why do fashion, film, and music - the sultans of cool in our culture, the shapers of our consciousness - take such radically different approaches to the **control** of creativity?

The music and film industries continue to battle over the need to expand copyright protection, and to limit sharing and reuse of prior work. The fashion industry, driven by similar market interests, employs a modus operandi that accepts rather than rejects derivation and appropriation as creative tools.

The contrast is particularly fascinating, given the dependence of each of these industries on our shared cultural heritage, which we call the "commons." The music and film industries' resources are being sapped in ongoing battles about the scope of legal protection that their CDs and DVDs should enjoy and whether prior works may be freely reused. These industries are unusually possessive: Their attorneys have gone after consumers who played DVDs on non-Windows software ("piracy"), Girl Scouts who sang copyrighted songs around the campfire ("no performance license"), and kids who set up their own Harry Potter fan websites ("trademark violation").

By contrast, the fashion industry long has accepted that creativity is too large and fugitive an essence to be owned outright as property. Fashion is a massive industry that thrives in a competitive global environment despite minimal legal protections for its creative design. While many people dismiss fashion as trivial and ephemeral, its economic importance and cultural influence are enormous. US apparel sales alone were \$ 180 billion a few years ago, supporting an estimated 80,000 garment factories, and fashion is a major force in music, entertainment, and other creative sectors.

It is precisely because fashion pervades so many aspects of our lives that we fail to appreciate the "social ecology" that supports it - the open sharing, unauthorized innovations, and creative appropriations. To be sure, the fashion industry aggressively protects its brand names and logos, utilizing trademarks and licensing agreements. In most cases, however, the actual creative design of garments is not owned by anyone. The couturier dress worn by a Hollywood starlet on the red carpet can be knocked off immediately and legally appear days later on department store racks.

The Hollywood studios and major record labels consider it self-evident and axiomatic that creativity must be strictly controlled through copyright law, lest it be "stolen" and

creators forced out of business. It is a significant point that creators, especially individual artists, need effective, reliable ways to be paid for their work - and copyright offers one important vehicle. But the fashion industry has a deeper faith in the power of creativity. Despite scant legal protection, fashion businesses invest enormous sums in each new season's creative cycle - and reap substantial profits year after year.

For virtually all players in fashion, some form of derivation, recombination, imitation, revival of old styles, and outright knockoff is the norm. Few denounce, let alone sue, the appropriator for "creative theft." They're too busy trying to stay ahead of the competition through the sheer power of their design and marketing prowess.

The fashion world understands that creativity is a collaborative and community affair. It's far too big, robust, and evolving for any one player to "own" as a legal entitlement. Long lineages of couturiers from Balenciaga to Ungaro, Chanel to Lagerfeld, and Gucci to Tom Ford have shown that designers necessarily must learn, adopt, and adapt from those who have blazed previous trails. If one were to deconstruct their work, an evolutionary chain of distinct themes, references, design nuances, and outright appropriations could be discerned.

Occasionally someone may protest a "rip-off" and get murmurs of sympathy. And the counterfeiting of brand-name products is rightly condemned as theft. However, in general, creative derivation is an accepted premise of fashion. Indeed, the industry's growth and prosperity have been built upon the famous maxim of Isaac Newton, "If I have seen further, it is by standing on the shoulders of giants."

Is it possible that the fashion industry, long patronized as a realm of the ephemeral and insubstantial, is the real bellwether for future ideas of "ownership" of creative content?

Through fashion we have a ringside seat on the ecology of creativity in a world of networked communication. Ideas arise, evolve through collaboration, gain currency through exposure, mutate in new directions, and diffuse through imitation. The constant borrowing, repurposing, and transformation of prior work are as integral to creativity in music and film as they are to fashion.

Although the music and film industries acknowledge the cultural commons as a source of inspiration, they then turn around and try to claim exclusive ownership of the results. The Disney Company, for example, has "taken private" dozens of folk stories and literary classics while contributing nothing to the public domain. Such one-way privatization of our culture makes it difficult for new creators to build from works that were themselves derivative at an earlier point.

Creativity can endure only so much private control before it careens into a downward spiral of sterile involution. If it is to be fresh, passionate, and transformative, creativity must have the room to breathe and grow, "unfettered and alive."

The legendary designer Coco Chanel understood this reality. She once said, "Fashion is

not something that exists in dresses only; fashion is something in the air. It's the wind that blows in the new fashion; you feel it coming, you smell it ... in the sky, in the street; fashion has to do with ideas, the way we live, what is happening."

The fashion world recognizes that creativity cannot be bridled and controlled and that obsessive quests to do so will only diminish its vitality. Other content industries would do well to heed this wisdom.

* David Bollier and Laurie Racine are senior fellows at the Norman Lear Center at the University of Southern California Annenberg School for Communication.

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