

## Digital Remix Culture

**Remixing has long since become a part of our daily lives. Today, when amateurs and artists work with images, texts and music, they are inspired and free. However, in many cases copyright law gets in their way.**

*by Leonhard Dobusch*

During what turned out to be the not-so-hot summer of 2014, a wave of ice water crashed through the internet. Throughout the world, people were filming themselves as they poured buckets of cold water over their heads, sharing the results in social networks and then nominating their friends to perform this strange ritual, which was quickly dubbed the Ice Bucket Challenge. It was a digital chain letter of sorts that spread like wildfire through the internet. The whole thing was actually a call for donations to the ALS Foundation. ALS is a rare nerve disease.

But this is only a partial description of the phenomenon. In contrast to a chain letter, each ice water performance also had an individual note; it was a continuation of the general motif. In this sense, the Ice Bucket Challenge is also prototypical for digital remix culture.

An example of this remix character is a version of the Ice Bucket Challenge that is circulating in the internet: it is based on the Edvard Munch's famous picture "The Scream". The internet picture is a remix and lives off of an interaction between the old and the new. Without a clearly recognizable reference to Edvard Munch's series of paintings "The Scream"<sup>1</sup>, it would be as inexplicable as it would be without any previous knowledge of the Ice Bucket Challenge phenomenon. This is the essence of a remix: the old, original work remains identifiable in the new work.

The example of the Ice Bucket Challenge is revealing. It illustrates how the internet and digital technologies have contributed to the rise in broadly disseminated – not to mention democratized – remix culture. As a mass phenomenon, this new remix culture is characterized by numerous contradictions.

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<sup>1</sup> Edvard Munch's famous series is made up of four almost identical paintings and was created between 1893 and 1910.

Autor

Formatiert: Kopfzeilenabstand vom Rand: 1,5 cm, Fußzeilenabstand vom Rand: 1,5 cm

## 1. (Un)clear origins

Classic copyright law and its comprehensive protective regulations are based on the fiction of creation without origins. However, creative artists have always been standing on the shoulders of giants. As long as the origins were only implicit, unclear or reshaped in the new work, then the fiction of creation without ancestry could be maintained. This is completely different in a remix. A remix practically lives because the cited works remain identifiable – “it’s not a bug, it’s a feature”. Thus the origins of remixed works are far clearer than in other works.

At the same time, attributing unambiguous and comprehensive authorship is more difficult. If it is obvious that a genius author is not solely responsible for a work, where is the foundation of authorship or copyright law? This is especially clear in the musical practice of sampling, which is prevalent in the fields of electronic music and Hip Hop. Sampling means placing recognizable sequences of a song in a new musical context. From time to time it is even the case that sampling is what helps the sampled work and its author find a larger audience – as it occurred with the song “Thank You” by the British singer Dido. After “Thank You” was originally published in 1998, it took until 2000 for it to advance to Dido’s biggest hit after Eminem sampled the first verse in his song “Stan”.<sup>2</sup>

There is even no clear origin to the Ice Bucket Challenge. The potential in filmed ice water showers’ humor and its public relations effects were not invented by the ALS Foundation. It only combined its own version with a donations campaign. In the same year (2014), an American foundation had already started a “Cold Water Challenge” for injured firefighters. But they also hadn’t invented the ice bucket story, as a look into film archives demonstrates: in “Towed in a Hole”, a film first shown in 1932, the comedians Laurel and Hardy took turns pouring cold water over each other’s heads.<sup>3</sup>

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<sup>2</sup> Leonhard Dobusch: Remix hilft den Originalen. Studie zu den ökonomischen Folgen von Sampling. In: Netzpolitik vom 22.10.2013. <https://netzpolitik.org/2013/remix-hilft-originalen-studie-zu-oekonomischen-folgen-von-sampling/> (last date of access nn.nn.2015)

<sup>3</sup> The scene is part of the silent film ‘Towed in a Hole’ with Laurel und Hardy published in 1932. <https://www.youtube.com/watch?v=sMNScYaKtK8>

## 2. (Un)planned development

If one looks past the question of origin, remix culture lives precisely from the processes of reproduction. To a certain degree, what is created in the process is always unplanned – even in the cases when a single remix is based on a subtle plan. Therein lies its character as a process: the flowing element of remix culture. The further development of artist Shepard Fairey’s work – a stylized Obama portrait that itself was a remix of a press agency’s Obama photo<sup>4</sup> – after its first publication is exemplary for this process.

Innumerable variations of Fairey’s work with other people and other messages have since been created. This unplanned development then also crosses the border between pop culture and art. This had also taken place with Andy Warhol’s famous work “Marilyn Diptych” and its innumerable variations. “Marilyn Diptych” belongs to Andy Warhol’s most famous works; it is an icon of Pop Art. It was created in 1962 and repeats the famous image of the radiantly smiling Marilyn Monroe in innumerable color variations.

A similar concurrence of planned and unplanned developments can also be found in the Ice Bucket Challenge case. Those responsible at the ALS Foundation certainly started the Ice Bucket Challenge with a plan to generate attention and donations. The diversity and extent of the action were not just unplanned; they couldn’t have been planned. Who could have been able to predict that the founder of Microsoft, Bill Gates, would participate with a video<sup>5</sup> shot from numerous camera perspectives?

## 3. Collectively individualist

The main reason why remix culture can not be planned lies in its character with partially individualistic, partially collectivist aspects. Of course, the Ice Bucket Challenge was powered by the involvement of many prominent participants who all poured water over their heads.

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<sup>4</sup> See Kreutzer, Till: Shepard Fairey vs. Associated Press, in: Digitale Gesellschaft e. V. (Hg.): Remix.Museum, <http://museum.rechtaufremix.org/exponate/shepard-fairey-vs-associated-press/>

<sup>5</sup> Bill Gates’ version of the Ice Bucket Challenge: <https://www.youtube.com/watch?v=XS6ysDFTbLU>

But this alone is not an explanation for its success. YouTube, Facebook and other platforms are full of videos of all kinds of people who pour ice water over themselves. The Ice Bucket Challenge phenomenon demands participation, appropriation and the individualization of collective ideas on the one hand. On the other, it lives from having these individualized ideas re-infused into the collective corpus of works. And precisely this is what is possible in a digital world, in which ideas can easily snowball.

The dissemination of the previous year's Harlem Shake videos was equally successful and had a similar dynamic. Entire open space offices danced in costumes to the song "Harlem Shake" and managed to get their videos into the best-of Harlem Shake compilations; these in turn inspired others to dance and create their own versions.

#### 4.) (A)political

In this process, remix culture is simultaneously apolitical and political. The Harlem Shake and the Ice Bucket Challenge are, depending on one's taste, fantastic or horrible entertainment – even in the cases when politicians pour ice water over their heads.

However, remix art and culture is sometimes explicitly political: parties try to use remixes to transport their messages,<sup>6</sup> and not just during elections – remix practices such as alienation, re-interpretation and collage enable even resource-weak protagonists to attain potentially large levels of publicity in almost all controversial subjects.

In this context, Dirk von Gehlen, author of the book "Mashup", speaks of a new "kind of democratic, updated version of caricatures".<sup>7</sup>

#### 5.) (II)legal

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<sup>6</sup> Examples from the German *Bundestag* election in 2013: <https://netzpolitik.org/2013/remix-im-wahlkampf-ein-best-of/>

<sup>7</sup> In this video statement, Dirk Gehlen examines the concept of internet memes as a liquid caricatures: <http://putsch-berlin.de/post/85007685004/das-internet-meme-als-fluessige-karikatur>

Particularly this political dimension of remix culture underscores the importance of the question of legality and illegality. A large percentage of common remix practices lie in conflict with existing legal frameworks. Even the case of the legally unsuspecting Ice Bucket Challenge led to discussions of whether or not the ALS Foundation should copyright the term.

Remix culture as a mass phenomenon is dependent on being published and disseminated. This usually occurs via commercial platforms such as YouTube or Facebook. These platforms have excellent networking functions. At the same time, one hardly needs to be concerned about lawsuits due to copyright infringement – the worst that can happen is that a video is blocked.

The use of platforms such as YouTube does not in any way make remix practices automatically legal, as the IG Metall union was forced to learn during the German federal elections in 2013. Their online editorial staff had published a clip that was made up of numerous takes from other YouTube videos. The clip was extraordinarily successful and reached over one million viewings. When asked whether they had dealt with the image rights, the online editorial staff made reference to the YouTube terms of use, which purportedly would allow the use, reproduction and creation of derivative works at no cost.

This explanation was wrong. Even if the terms of use would have allowed for remixes, a large portion of the material that is available on YouTube was not uploaded by the copyright owners. They haven't agreed to the terms of use, which is why its use in the context of the IG Metall video was illegal. Shortly after the elections, the IG Metall removed the video from its official YouTube channel.

This IG Metall example is not a solitary case. There are hundreds of thousands of videos on YouTube with a "no copyright intended" byline – basically indicating that the uploader "doesn't want to claim the copyright". But this is also a legally ineffectual strategy to protect oneself from the legal consequences stemming from unavoidable copyright infringements in remixes.

## **Conclusion**

Remixes have found their place in our daily lives. Today, remixes are a part of common cultural practices and should be covered by the freedom of speech, opinion and expression. The currently applicable laws only insufficiently acknowledge this practice and remain fixated on the concept of an autonomous author who creates his work practically *ex nihilo*. Compensation is then only intended for the original authors and not for the artists who create their new works from a large stock of art, music and literature. Interestingly, remixes are currently only allowed on the big platforms such as YouTube. Only when a more flexible copyright law is introduced that is open to remix culture can it actually develop and realize its inherent potential for creative diversity and cultural participation.

## **The author**

Leonhard Dobusch (\*1980.) has a business and a law degree. As a junior professor at the management department of the Freie Universität Berlin, he has been researching on issues of digital communities and copyright law. He is a co-initiator of the <rechtaufremix.org> project of the Digitale Gesellschaft e. V. as well as a co-publisher of the anthology: "Generation Remix: Zwischen Popkultur und Kunst." iRights.Media, 2014.