

A beatles' album
modern
reinterpretation led to
a scandal in the
music industry: ...

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We're all familiar with Black Tuesday, the infamous start of the Great Depression in 1929 when the stock market completely plummeted. Most are less familiar with Grey Tuesday — this occurred in much more recent times, and while it didn't have quite the national impact the Great Depression did, it did have quite an effect on the music industry. Grey Tuesday refers to the day of the release of Danger Mouse's now (in)famous The Grey Album, which combined the Beatles' The White Album with the vocals from Jay-Z's The Black Album. Even though Jay-Z, Paul McCartney, and Ringo Starr all approved the project, rights holder EMI sent out multiple cease-and-desists in attempt to terminate the album. In response, music websites everywhere were encouraged to stream The Grey Album for free download for 24 hours in protest. The two different sides argued about the stipulations on fair use — those in favor of the album believe the sampling constitutes fair use, whereas those opposed believe copyright infringement was involved. On Grey Tuesday, over 100, 000 copies of the album were downloaded, making it an instant hit amidst the controversy. Music critic Sam Howard-Spink stated, " The tale of The Grey Album and Grey Tuesday offers a rich case study for the examination of a wide variety of contemporary cultural issues within the context of the ' copyright wars' remix culture and the age of the digital network." The Grey Album and the controversy surrounding it does indeed raise questions about how sampling should be handled, and to what extent transformative appropriation can be protected by the current copyright system in place.

The case never went to court because EMI, who also held rights to the material, put a stop to the release — however, because the album was

released for free, there was no reason for them to go after Danger Mouse, better known as Brian Joseph Burton, because he wasn't profiting off of the album. Nevertheless, Burton was upset about the sheer amount of work he put into the project only to encounter the legal obstacles that EMI put out.

Burton said on the matter:

“ A lot of people just assume I took some Beatles and, you know, threw some Jay-Z on top of it or mixed it up or looped it around, but it's really a deconstruction. It's not an easy thing to do. I was obsessed with the whole project, that's all I was trying to do, see if I could do this. Once I got into it, I didn't think about anything but finishing it. I stuck to those two because I thought it would be more challenging and more fun and more of a statement to what you could do with sample alone. It is an art form. It is music. You can do different things, it doesn't have to be just what some people call stealing. It can be a lot more than that.”

Listening to Burton's explanation, we can clearly understand the artist's side when it comes to sampling music; like he says, it shouldn't be thrown aside as some run-of-the-mill copyright infringement case. He explained his methods in detail: First, he listened to the acapella The Black Album for the amount of beats per minute for each track, and then carefully studied the 30 songs on The White Album, waiting for every strike of a drum or cymbal that was isolated from other instruments or vocals, turning them into single sounds that he would later combine to make beats. After pulling every single Ringo part from The White Album, Burton repeated the same isolation process for guitar and bass samples. Once he had enough different sounds to

choose from, he started with a Jay-Z vocal track and built the music around it — to make the music flow better with Jay-Z's lyrics and “ sound more like hip-hop,” Burton messed around with the samples in Acid Pro. “ For instance, with these handclaps,” Burton said, using the Jay-Z track “ Dirt Off Your Shoulders” as an example. “ Taking one little Beatles handclap wasn't going to do it ... but if you double it up and move them away from each other so they're doubling up the delay, and then take the pitch of it and throw it up in the air and make it a higher pitch. I know it sounds all geeky and stuff, but you get a much better sound to it.” He applied the same sort of alterations to the other instrumental parts. Knowing about the musical knowledge and artistry that went into such a creation, you can definitely understand Burton's reasoning that what he's done is clearly closer to transformative appropriation on the creation spectrum than stealing.

Taking Grey Tuesday into the equation, there were clearly some laws being broken, “...but copyright law was written with a particular form of industry in mind. The flourishing of information technology gives amateurs and home recording artists powerful tools to build and share interesting, transformative, and socially valuable art drawn from pieces of popular cultures. There's no place to plug such an important cultural sea change into the current legal regime.” argues Jonathan Zittrain, professor of Internet law at Harvard Law School. His argument is one that is becoming more and more popular in these days of ever-advancing technology. Unfortunately, copyright law has not been updated quick enough to keep up with trends like The Grey Album. It's hard to think of a universal system where everyone wins — not

when money is involved. The system of “ asking permission” simply doesn’t work because the labels would never agree to it — Jay-Z and the remaining living Beatles giving their blessing to the project sounds ideal, but once the other rights holders of the master recordings (i. e. EMI) catch word that the recordings they legally own are being used to make someone else money, greed will always come before art. Matthew Rimmer, author of *Digital Copyright and the Consumer Revolution: Hands off My iPod*, states in his book that “ copyright holders are struggling keep up with their customers who, wielding new technologies and the communication possibilities of the Internet, are violating copyright protections. After centuries of solid protection, the changed equation has left these holders at a loss as to how to proceed.” Rimmer writes that “ copyright holders are responding ineffectively by overreacting, resulting in the souring of users against them and stifling the creation of new works outside of the control of established producers of music, television, etc.” This has brought those the copyright law business to a standstill, with no one knowing which direction to move in.

Perhaps it will become a new norm to include a more in-depth at the boundaries around sampling when it comes to artists signing a contract with their label — if unions made a bigger deal about protecting the artists’ right to allow others to sample their work according to fair use, then labels wouldn’t be able to turn every case of sampling into grounds for legal battle. The system should be working more towards the artist — obviously, every case will vary, but in this situation when Jay-Z and the Beatles encouraged the transformation of their art into other musical pieces, there should be no

reason for the project to be halted just because of a record label's greed. Putting money before art will never lead to an authentic industry, and will only dig the music business into a more corrupt hole than the one it's currently sunken into.