

Crossroads: Intertextual Strategies And Economic Relations In The Age Of Digital Music

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The idea of intertextuality have been a common place since postmodernity was establish as a key term in social and cultural studies: it was accepted that one of the principal features of that new sensibility was the breakdown of lineal narratives and the explosion of references from multiple sources in all texts. In music, this was represent by the creation of the sampler and the birth of musical cultures based in the cut and mix processes, as the hip hop or the electronic music. In this paper, I will try to create a map that will allow us to move from the characterization of intertextuality and its different types to the implications that the fit of two texts have in the contemporary culture, in which the debate about intellectual property have become central.

In a different work (Fouce, 2004) I have emphasized the necessity to establish continuities between text and context in order to reach a better understanding of the musical piece. If in that occasion I have used the concept of genre for reach this continuity, I will defend here that using intertextual typologies as the starting point for the discussion on intellectual property issues is a important tool to clarify ideas. Also, I am convinced that this strategy can help popular music studies to insert themselves in the debates of other academic disciplines and also in social debates that are surprisely strong at

this moment. In one way, it will help us to explain clearly to non-scholars, and sometimes to other colleagues in social science and humanities fields, why it is important to study popular music.

Two Kind of Problems

Two different kind of problems will arose in the study of intertextuality in music: we need to make a reflection on how texts work to move later to the study of what kind of consequences has each kind of relation in the cultural context. In the study of texts, the first step is related with possible typologies of musical intertextuality: we need to define how each text is related with others (covers, loops, genres...), since each kind of relation will present different problems. This work has been done by Serge Lacasse (2003): starting on the categories that Roland Genette has established, Lacasse propose a translation to musical texts and enrich the classification with new typologies.

The second moment of reflection can be illuminated from the work of Bajtin (1989) where he defend that the mixing of text have always an intention, where the meaning come from. From the tribute to the parody, the question now is not the technical procedures that

embrace two texts, but what kind of results the author of the mixed text was looking for.

This is, of course, a task that can not be covered in this paper. But it will be a necessary starting point in order to move to the study of the music's context, to the social and cultural dimension of the intertextual relation that have also implications in the legal, economic and technological fields. I will try to summarize these implications in the next pages, using some case examples.

In 1999 Moby edited *Play*, a very popular and successful record. *Honey*, the first single, becomes a very popular hit all over the world. Some years later, in a compilation of blues recordings, I heard a song that sounded very similar to Moby's one; in the credits, I realized it was an old recording made by Alan Lomax in 1959, credited to Bessie Jones. Moby had sampled the song as the basics of his music. It is clear that my perception of *Honey* could not be the same with the new information: there are a complex set of relations between Jones and Moby's song, related to comprehension, authorship and cultural appropriation, as Hesmondhalgh and Born (2000) has explained. We need to question what different incomes have reaches the original singer, the ethnomusicologist, the pop star. We need to discuss what kind of ethical, economic and cultural problems are in this intertextual relation, if is right or wrongs to loop the past for free.

More recently, most of Spanish newspapers gave some relevance to the prosecution of DJ Syto, a young and

semiprofesional DJ who distributed in the web a cover of Franco Battiato *Voglio vederti danzare*, a song that was very popular in the country some years ago in his Spanish translation. If Battiato song was a celebration of different musics around the globe, from sufi's to Balinese, the new cover was a racist proclamation against Romanian immigrants, with lyrics like "Shit! Those fucking Romanians, Motherfuckers Romanians, I will cut your hands, motherfuckers Romanians". Here we are again in front of an intertextual problem (a change of meaning produced by the change of the lyrics) but it is obvious that DJ Syto is not in jail just because he was doing intertextual games. In this case, the production of a cover, the creation of new meaning, has involved a criminal procedure (and also can generate a civil one, since he probably did not have the permission of the owner of the copyright).

There are thousand of possible examples to illustrate the continuity between intertextual relations and legal, economical and ethic implications. At least in Spain, some of the intertextual operations are allowed by the Intellectual Property Law: commentary, parody and quote are permitted, although there is no clear definition of how much bars, lines, images or pages can be quoted without permission. What is clearly not allowed is the sampler, which needs the permission of the authors of the copyright. Since several musical cultures, as hip hop or electronic music, base their practice in the use

of samplers, it is obvious that creators are limited in their tools for creativity. The case of Danger Mouse, who mixed the Jay Z *Black album* with the Beatles *White album* to create the *Grey Album* is paradigmatic: since he did not receive permission for use the Beatles songs, EMI have asked the destruction of all copies of the record, although more than one millions of downloads have been done from the web. In the light of this legal regulation, musical creators are like modern Dr Frankenstein, with the technological skills and tools to invent a creature but out of law and the moral codes, not allowed to liberate their creatures out of the laboratory, to give them public life.

The examples of Danger Mouse and Moby situate us in the crossroad of two important social realities: in one hand, since we are living in a capitalist society of information, the intellectual property is protected in most of western countries. But, at the same time, an increased number of voices are claiming for the defence of the public domain (Lessig, 2005) or, as others prefer to refer, the collective intelligence (Levy, 2005).

Manuel Castells (1998, 119) have written that “cultural battles are the power battles in the information age...

Power, as a capacity to impose conducts, is based on the nets of information exchange and manipulation of symbols that interrelated social actors, institutions and cultural movements”¹. At the light of this idea, the actual system of intellectual property is confronting the public interest: what Castells have called informational capitalism

is characterized by the concentration of cultural industry and media and also for the intensive use of technologies, sometimes with the aim to control the public use of products. In the digital age, that has started in music with the substitution of vinyl by compact disc in the 1980s, the big business is never more the selling of products, but the market of property rights associated with these. In other words, we are moving from buying a record in a store to buy the permission to download a song from the web. In this package of property rights we must include all possible uses, from the inclusion of a song in a movie soundtrack, the sampler, the cover, etc... At the end, the capacity to manipulate our symbolic world is in the hands of each time less institutions, most of them private agents out of the democratic control. We need to look at this situation in parallel with the corporative concentration and the increased use of technologies, which configures a process of privatization of culture. Something that can be analyzed in the light of the next idea of Castells (1998, 114): “informational capitalism... is a tougher form of capitalism on aims and values, but incomparably more flexible than any other predecessor on its means”.

Voices and Opinions

This is the structural situation at this moment: every moment a new creation, music, ideas, are emerging, using previous musical material in different ways, but the intellectual property regulation is limiting the

possibilities for creators. But in the last years a strong discussion on the situation has taken place not only in the music field, but also in the software one and, in a less obvious one, in the world of genetic engineering (but, at the end, a genetic patent is no more than a set of codified information). Let move now to examine who are the actors in this debate, what kind of arguments are handling and which voices are absent in the terrain.

Since not all actors are in parallel positions of power and public control, the voices and interest of the corporate musical industries are guiding most of the discussions: we can see that point in the letter that the Minister of Creative Industries and Tourism to an academic who have asked about the terms of copyright law in United Kingdom (Purnell, 2005)

The music industry is keen to see an extension of the copyright term for sound recordings, which is currently set at 50 years. Many UK recordings dating from the early 1960s - such as those by The Beatles and the Rolling Stones - are still selling well, and companies like EMI are concerned about their income streams once these recordings start to go out of copyright from 2010. Any change in copyright term would be a matter for EU law, so all relevant Government interests, as well as our EU partners, would need to be

convinced that change is justified and in the best interests of UK stakeholders generally.

As we can see, the logic of the relation between intellectual property rights and the public domain is ruled by the interest of the music industry, without any reference to the profit that public culture can receive when the Beatles or Rolling Stones music will enter the public domain.

At least, this document do not show the disdain about all actors out of the industry that another letter shows: in this occasion, it is a letter that many Spanish organizations sent to the Ministry of Industry celebrating the proposal of the LSSI, the law that will regulate both the services on the information society and electronic commerce (ACAM, 2005). These organizations are not the main actors in the Spanish music business, but represent most of the small and medium-sized composers, editors and record companies.

Digital commerce of cultural contents has been working without control, with high damage for our economies, free commerce and the own Culture.... We can't conceive the idea that some organizations, in theory representatives of... retailers and consumers, that have been developing acts that are out of legality, can ask to

intervene in the redaction of future laws.

In this case, the opinions and interest of the public are explicitly denied. Since the public interest is a diffuse concept, with the involved actors quite undetermined, (there is no organization of music listeners in Spain, at least with some public visibility, as there is in the case of TV spectators), the debate can not take place in term of equity: since these organizations are representing well identified persons and companies, with a clear role in the process of music production, the other part of the debate will always lack capacity of representation. Despite of it, several voices have claimed against this way to understand music and culture, some of them with the legitimation of coming from a national newspaper, as the commentary of José Cervera (2005) in *El Mundo*:

"We also want to be considered. Culture is about dialogue: without discussion, we only have market and imposition. If they do not give us voice, we will need to shout to be heard. And it's going to be nasty".

Rethinking Music Property

For many artist, public valuation is based on commercial decisions: as many buyers of the record, most popular the artist is. (Frith, 1978) This is, of course, a very liberal position: democratic choice is seeing as equal to commercial choice,

but I am not going to discuss this idea now. The question is what exactly means to be popular; from my point of view, in popular music this concept implies two elements. The first one is about profit, but the second one is much more interesting for this discussion: to be popular means to be incorporated to the collective intelligence. Why are we more concerned, as academics, with Madonna or Michael Jackson or The Beatles as, for instance, Gov'tmule, the band that is sounding in the background while I'm writing this pages? Popularity is about the music we listen to, the songs we talk about, the artists we write about (as journalists or academics); popularity is about to give cultural value to some music, incorporate it to our world of references, experiences and ideas.

In this way, we are shareholders of the popularity of Madonna or The Beatles, but a very strange kind of shareholders, with nearly no rights on our company, but the one to buy or not the products. The musical industry need the involvement of the listeners in the career of a musician, but, as we have read some lines before, this same industry deny the public the possibility to have any kind of control about music; in the extreme affair we saw before in the letter to the Spanish Minister of Industry, the music business even deny the capacity to defend the people's own interest.

From this point of view, it seems necessary to include more voices in the debate about intellectual property, a discussion in which the industry have a very strong

voice but the voice of listeners, and, more surprisingly, musicians, is quite low. Also, a democratic debate on culture in the digital age must discuss the concentration of power in a few hands and the dynamics that are behind this power. For instance, we need to rethink about the author's control on transformational processes: at least under the Spanish law, the sampling, the cover and most of the operations that musicians need to do in order to produce music, specially in some cultures as hip hop and electronic, are under control of the rights owner. At the same time, there is no regulation at all about what a musician or a producer can do with traditional music, a field in which we have seen how Western musician have used and transform original materials without any reference to the origin and without any ethical reflection on the results of this work, as Feld (2000) have illustrated.

Conclusions: Opening a Pathway

It will be too pretentious to establish conclusions in a work with these characteristics: I have just tried to give a very brief review of the lines that connect different problems, a map that just outline some pathways to walk by from now on.

I have try to establish connections between concepts that came from different fields: my starting point was to show that intertextuality is not just a matter of textual analysis, but have cultural, legal and

economic implications. I think that we need to start from a clear typology of how musical texts are related one with another in order to illuminate a debate that, most of the times, is mixing concepts and realities with no clear relation between them. In doing that, we can afford to show the importance of popular music studies in the society of knowledge and information.

Endnotes

1. All translations from works referenced in Spanish are mine

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