

The 'Blurred Lines' between originality and art

The ['Blurred Lines' Copyright Ruling](#) offers a glimpse into how public and legal misconceptions about innovation can get in the way of how it really happens.

This past Tuesday, a Los Angeles federal jury concluded that Robin Thicke and Pharrell Williams (the performer and primary songwriter-producer of the 2013 pop hit 'Blurred Lines') committed copyright infringement, using elements of the 1977 Marvin Gaye song 'Got to Give It Up' in their composition and without proper credit. Mr. Gaye's family was awarded approximately \$7.3 million in profits from the song and related damages.

This ruling, and the subsequent press attention, repeats the ['My Sweet Lord'/'He's So Fine' plagiarism suit](#), in which George Harrison faced charges that his hit single, 'My Sweet Lord,' plagiarized the Chiffons' 1962 hit 'He's so fine.' George Harrison recorded a version of 'My Sweet Lord' for his album, 'All Things Must Pass,' and released the song as the first single from the first album released by a Beatle after their breakup. Released on November 28, 1970, it went to number one soon after. The lawsuit followed almost as quickly.

In the end, the evidence showed the similarities between the two songs, and the judge said it was 'perfectly obvious' the two songs are virtually identical. The resulting calculations of damages, as Self describes in his post, are fascinating in and of themselves as they speak to how courts might decide what makes a song successful. In the end, the courts decided that roughly 3/4ths of the money that Harrison made on his hit song and on the album were the direct result of similar notes used in the two songs (written after the fact, as Harrison did not ever write down his music).

Here is Harrison singing "[My Sweet Lord]"

<http://andrewhargadon.com/wp-content/uploads/2015/03/MySweetLord.mp3>

and here is the Chiffons singing "He's So Fine"

<http://andrewhargadon.com/wp-content/uploads/2015/03/HeSoFine.mp3>

The two are certainly similar and yet nobody would mistake one for the other.

This same obsession with originality reminds me of another wonderful history of one of the most successful movies of all times, Raiders of the Lost Ark - though this time with a different ending.

In 1978, George Lucas, Steven Spielberg, and the screenwriter Lawrence Kasdan gathered in Hawaii to work through an idea for an adventure movie that Lucas had been mulling over. They gathered for a spitball session - a Hollywood term for a brainstorming session in which they would come together to throw ideas around in hopes of sparking in each other yet more ideas each might never come up with on their own.

Two things made this particular spitball session remarkable. First, the movie was a runaway success and so we care about how it came about. Second, they recorded and transcribed this session and the transcript is now available [online](#) and, in 2013, New Yorker writer Patrick Radden Keefe wrote [Spitballing Indy](#), a short but wonderful piece about it.

After 'Star Wars' opened, in 1977, Lucas had sought refuge in Hawaii, and it was on the beach there that he first pitched Spielberg the idea for a film that would recapture the rollicking adventures and Orientalist locales of the matinee serials of Lucas's youth.

[Spitballing Indy](#)

In this session, Lucas, Spielberg, and Kasdan come up with ideas for everything from the overarching plot to the characters to individual scenes. And they do so in the ways that we all tend to come up with new ideas: by bringing in bits and pieces from our past experiences. The origins of the hero, Indiana Jones, for example, draw directly from a melange of previous heroes:

The hero, Lucas explains, is a globe-trotting archaeologist, 'a bounty hunter of antiquities.' He's a professor, a Ph.D. 'People call

him doctor. But he's a little rough and tumble. As the men hash out the Jones iconography, they refer, incessantly, to other films, invoking Eastwood, Bond, and Mifune. He will dress like Bogart in 'The Treasure of the Sierra Madre,' Lucas says: 'the khaki pants, the leather jacket. That sort of felt hat. Oh, and also? A bullwhip. He'll carry it rolled up,' Lucas continues. 'Like a snake that's coiled up behind him.'

The love interest, and where they meet in the movie, also comes directly from previous characters:

'She's sort of a Marlene Dietrich tavern-singer spy,' Lucas suggests, of the character who would become Marion Ravenwood (Karen Allen). She works in a bar, he continues. It's like Rick's Place, in 'Casablanca.' [in this case, the bar is set in Nepal]

In addition to the spitball sessions, [StooTV](#) has painstakingly pieced together a brilliant scene-by-scene anthology of the original B-movie inspirations that made the

opening sequence of Raiders of the Lost Ark: [Raiders of the Lost Archives](#). Note that while almost every scene drew from previous movies, the result has been widely considered the best opening sequence in film. Thus Lucas and Spielberg, themselves film school students and movie buffs have entered the canon and are now feeding future auteurs. In an epic irony, the audio is not included, as youtube notes, because 'This video previously contained a copyrighted audio track. Due to a claim by a copyright holder, the audio track has been muted.'

The 'Blurred Lines' copyright ruling, like the Harrison/Chiffons ruling, establishes a very strict notion of copyright violation which, if we applied to the modern era, would rob of us of almost all major innovations. Edison's lightbulb came 40 years after the original incandescent bulbs were patented. Ford's Model T came decades after the first commercial automobile. Apple's Macintosh computer built on Xerox's Alto, the iPod followed roughly a dozen MP3 players built for the PC platform, and the iPhone followed a trail blazed by the Blackberry and Treo. And Google's search engine also followed roughly a dozen other search engines.

Managing for creativity

When Bob Sutton and I studied IDEO, their designers regularly came up with creative solutions to new problems by tapping into their variety of past experiences. I even wrote a book about it? [How Breakthroughs Happen](#)? a book which, like everything else, drew from the ideas of others who had come before. If you want to go way back, G. W. Bethune (1837) defined creativity as the ability to 'originat[e] new combinations of thought.' William James (1880) called it 'the most unheard-of combinations of elements,' and sociologist Ogburn (1922) defined it as a result of 'combining existing and known elements of culture in order to form a new element.'

IDEO's famous brainstorming sessions are identical to the Lucas, Spielberg, and Kasdan spitball sessions. In pursuing innovation, teams should similarly be looking for new ideas in the combinations of things that have been done before. And to do this well, the best designers have an interest in the long history of their own fields as well as the breadth of ideas already out there in other fields.

As I've mentioned in an [earlier post](#), even Los Angeles Lakers star Kobe Bryant, not known as the most humble of celebrities, learned the game by studying tapes of the great players who went before him. He said:

"There's nothing that hasn't been done before. I seriously have stolen all of these moves from all these great players? I just try to do them proud, the guys who came before, because I learned so much from them. It's all in the name of the game. It's a lot bigger than me."

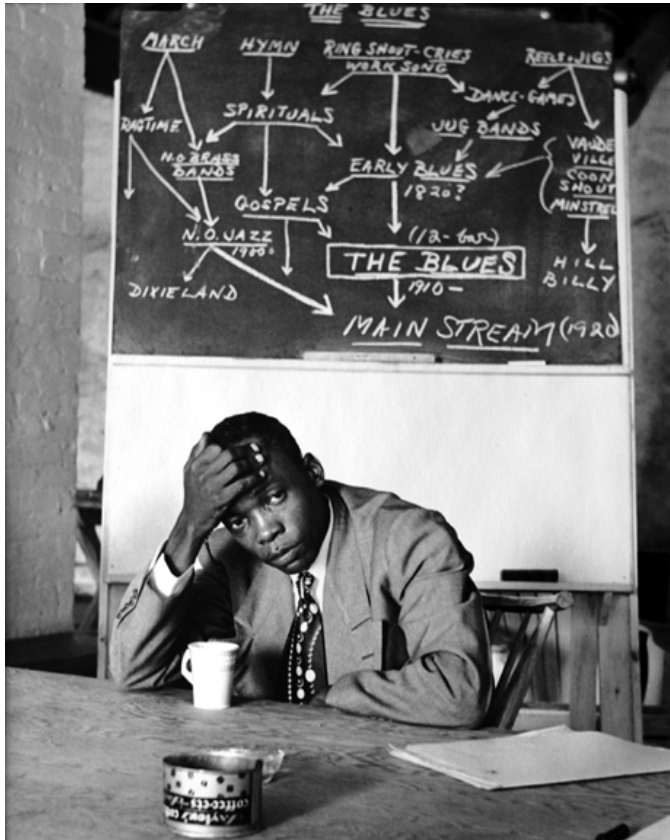
The difference between creativity and copying is how far afield you look and how many different ideas you bring together. Who else has tried to solve this problem before? What did they do? What worked that we can build on? What can we add that was missing?

Creativity in perspective

Finally, If we insist on equating creativity with originality, we should really be asking two additional questions. First, how much does the value of any work of art (or anything, really), come from its inspirations and how much comes from which inspirations are combined, in what particular ways, and to what audiences? Had George Harrison simply covered the Chiffons' teen love song and offered it to his audience in 1970, how well would it have sold?

Second, whenever we acknowledge the inspirations ? the raw materials ? of a successful innovation we shouldn't stop there. We should keep asking ?what inspired those inspirations?' Who did the Chiffons borrow ideas from? What else did Harrison draw from?

I'll finish with a wonderful image of John Lee Hooker and his diagram of the origins of Blues music. It is too clever by half to point out when an artist copied from someone else and yet it is sublime humility when the artists themselves recognize in their own work the threads that have run through everything that came before.



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