The Art of Theft: Creativity and Property on deviantART

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As work on new media production has recently shown, the web enables media creators to bring the artifacts of what Paul Wills and colleagues (1990) describes as "symbolic creativity" or what Jean Burgess (2007) refers to as "vernacular creativity" out from their homes, schools, and small social groups into contact with wider audiences. It also enables others to find this content, view it, easily download it, and repurpose it. It is this kind of activity that Palfrey and Gasser argues provides both the upside and the downside in this "brave new world of digital media." Specifically, John Palfrey and Urs Gasser write that, "Creativity is the upside of this brave new world of digital media (2008). The downside is law-breaking."

Over the past two and half years, I have been studying this phenomenon, as it plays out online and offline. My commitment to an ethnographic approach to research has limited most of my attention to one website--albeit a rather large one--and also to comic and anime conventions, both of which feature the new generations of creators that have been taken up in the discourse of copyright law. In particular, I focus upon the real and not historically new concerns of many young artists and media producers as they post their work to the internet.

[deviantART](#) is one of the most prominent sites for the distribution of digital media and art in almost all forms. deviantART features visual art work in a wide range of genres, media, and subject matter (This includes literature, poetry, sculpture, and craft as well. Spend a few minutes just looking at the 1000s of categories and sub-categories and the diversity of the work will be come clear). Pinning down the exact numbers of active individual users has been difficult--as it is with comparable studies of other sites--but as of this writing it boasts over 12 million members (which may just mean accounts) and over 100 million pieces of individual art work. According to [QuantCast](#), an internet measurement company that has partnered with the site, deviantART receives just over 20 million global visitors per month (one-third from the United States).[1] The site is approaching its tenth birthday and is often ranked highly amongst all visited social network sites in many countries (according to companies like comScore).

Members of deviantART have userpages that are analogous to a profile on a social network site. Userpages act as galleries and message boards through which artists can display their work and communicate with other members and those who watch their work. They give and receive comments on art work, as well as engage in conversations about art and about their social lives on their journals (like blogs), on forums, and in chat rooms. From what I have seen through online participant observation, discussions and interviews, posting work to deviantART provides all kinds of opportunities for its members to show off their work, meet like-minded people, collaborate, and improve.

However, at the same time, I have also observed that a dominant concern amongst those who post and share their work on deviantART is a concern over what they describe as "art theft."

The discourse and morality of theft

Over the course of my field work, I have seen discourse on theft come up repeatedly throughout the site giving evidence to the fact that concern about the protection of one's art is a pervasive concern. The specter of theft comes up in journals deviantART members write, news articles they post to the site, in digital stamps that they post on their pages, in tutorials they make to help each prevent theft, as well as in everyday conversation.

Headlines from news articles and journal entries reporting incidents of theft

I interviewed one young creator, at the time a 16 year old girl who is into Japanese animation and is considering a career in character design for video games or animation, who told me that "[Theft] is definitely a very hot topic. Like, people talk about it all the time. … Every artist that I watch on deviantART … every single one of them has had their work stolen and used by someone else."

"Theft" was a problem because of its unfairness and its immorality:

"It's disturbing…artists work really hard to come up with what they come up with. … it's a cheat, a taboo when someone steals someone else's work or ideas. Because we put all this time into it. And then someone is just going to take it and pretend that they did it; that they put all the effort in. For nothing. And other people get praised for something they didn't even do. It's just … it's not right."

An older and more experienced artist echoed this point about fairness and emphasized the emotional impact, calling theft "soul destroying" when the products of "hard work" can be "just taken in the blink of an eye" and "made almost irrelevant by somebody who just doesn't really give a damn."

Finally, another artist in his mid twenties explained to me in a conversation that that "real damage of art theft isn't how it cheats the artist," as the previous quotes suggested, "but rather how it demoralizes the artist" and "keeps people from sharing their art or making more, or putting the effort in…"

So clearly there is something that is labeled as "theft" that presents a significant problem for so many artists for different reasons. Issues of morality and demoralization are central. But what

actually makes something theft?

What is "art theft"?

What I have learned is that even amongst the artist and activity I have observed, there is a great deal of diversity as to what constitutes theft. This diversity is reflected in a conversation that unfolded on the userpage of a member who had already become well recognized on the site, which had eventually led her to getting a job at a major animation studio (which in turn made her even more famous and popular on the site).

Someone had come across her page and left a comment expressing considerably excitement about her being "THAT PERSON I SAW IN THE NEWSPAPER!!" But this was followed up by a note of concern, when the commenter noted that she had scanned the picture and had used it as a "personal display picture." "If I continue to use," the person concluded, "that's stealing … mmmm…"

Thus, the comment concludes with both a statement on the topic of theft, but perhaps also an unstated request for permission to continue to do something that the might be seen as wrong. Later that day, however, the artist replied to this comment and noted that she did not think that this was stealing. In fact, she continued, there was a whole list of things that she had seen people called "stealing" that she didn't feel were stealing at all, such as taking her work and turning it into icons, or banners, or personal prints, and others. She concluded that she wished people on deviantART would "would stop thinking everything is 'art theft.'" In contrast, she argued:

"Stealing is when someone makes profit from my art without permission, or claims to have drawn my picture, or sneaks into my room at night and swipes the hard copies, and that's IT. This is not directed at you; it's something I've been wanting to say for a long time."

There are a number of important things worth mentioning here. Perhaps most important is the fact that the artist felt compelled to say anything at all. Her listing of different examples of things that specifically are not art theft her exasperation at all of the reports of art theft, and her point about wanting to have said this for a long time reveals her impression of the general sentiment on the site as perhaps being different.

But a day later, she added a slight caveat. In her journal, while she pointed to the conversation and re-iterated the main points, she also tacked on a message that this was all just her opinion, that there was no clear definition of theft, and that she knew that many other artists would describe as theft things that she doesn't. This point was echoed by some of the commenters who followed up on the discussions. One in particular reiterated the idea that he agreed, but that it was all up to the artist:

"If you personally have no problem with someone posting your art on a forum or blog without permission…then it's all hunk dory. But you are within your rights to request someone to stop using your intellectual property in any way."

The commenter here was referring to an interpretation of copyright law. Throughout my research I have seen many people use copyright as a way of supporting their claim of theft. In fact, site policy actually equates art theft with copyright infringement. However, I have observed that there is much discussion, and sometimes disagreement, as to what copyright does and does not allow, made particularly complicated by the global dimension of the site. While "copyright" is often invoked, it has been clear there is a moral issue at stake.

What I see here is an emphasis on what's known in the legal discourse as moral rights. Moral rights posit a strong connection between an artist and his or her work such that to violate the work is to violate the artist. My sense is that the viewpoint is a dominant one on the site. In the end it's the artist's right to decide what is and is not okay with respect to his or her own work. It is the transgression of the artist's rules that makes something theft.

Dimensions of transgression: Permission, credit and money

So what are some of the issues that affect people's sense of being violated, of having their rules transgressed, and thus some action turning into theft? The previous story has pointed to several of the key issues. Here, I will touch on three of the central concerns that resonate with debates about intellectual property before the web.

First, there is the issue of permission. Whereas the artist in the previous story elaborated a wide variety of scenarios where she didn't require permission, many others have argued the opposite point: that permission was critical in every situation. For these, using someone else's work in some way without their permission was the very definition of theft.

Second, there is the issue of credit. Rebecca Tushnet (2007) has noted in her discussion of fan-fiction writers, attribution is central to notions of authorship, even amongst writers whose works is proudly appropriative. For some, asking for credit is a defining part of their practice. Stock photographers on deviantART, for example, provide work explicitly to be used and transformed in others' work. Some post without any kind of restrictions, but more typically they have elaborate sets of rules with asking for credit being a central one. "It's the only thing we ask for," one leader amongst the site's stock photographers told me.

Finally, there is the issue of making money. Even for the artist I mentioned in the previous section, who was untypical in her permissiveness with others' use of her work, felt that the use of her work in a way that generated money for someone else without her permission was theft. In fact, later in my study, she had to confront this scenario directly when a major American retailer began selling one of her tattoo designs at a store. This type of scenario was also something that members of deviantART saw as a real threat as people's work has been used in commercial products and sold in various online sites, such as eBay, and retail stores.

Reports of stores, online and offline, selling deviantART members' work is common. But the issue of money is, perhaps unsurprisingly, even more complicated. Money is often not the central issue in defining theft, though it might exacerbate it. Some even see money as a distraction because there are others ways to profit off theft besides money. As one person put it, an art thief can gain tremendously without making money, through "attention, fame, recognition in the art world, connections, and people requesting and possibly offering to buy work." These can all "LEAD to monetary gain."

Traditional claims and asserting control

Looking at a current major site where digital copies of art is distributed, talked about, and circulated, many who are building expertise with the tools and technologies of the production, manipulation, and distribution of media in digital forms do not necessarily have new notions of property nor, as I would argue, new notions of creativity as implied by much of the rhetoric around new media.[2]

In fact, their notions of property might seem very traditional. In order to account for what they might see as the materiality of digital products, they are asserting and claiming a wide range of property rights in order to account for both the new opportunities and risks that come with posting their work online. And they are doing so on similar grounds if one compares this to historical investigations of copyright law.[3] Like the participants in Don Slater's (2002) study of the trading of sexually explicit material in digital form, participants on deviantART are trying to assert control and define a measure of scarcity around their work particularly with a media form that seems to defy any ideas of material scarcity.

Moreover, I am arguing that they are trying to assert some notion of control over their identities as artists--their creative authorship. If there are differences between some views of property and others, it cannot be reduced to age or technology. Both may matter and the question for me is how this might be the case. However, the way this conversation is typically framed leaves no space for historically produced practice, or perhaps assumes that practice is homogenous and ahistorical. Here, I have argued that art theft as it is commonly deployed on deviantART means to violate the creator's terms of how their work is to be used. I suspect that for some, theft is seen as a threat to their very identities as creators. Wrestling with the boundaries between legitimate uses and theft then helps constitute what it means to have one's sense of self closely linked to creative practice. But as I am discovering in my research, deviantART is constituted by a variety of people, with different aspirational trajectories, engaged in multiple practices, supported by different spheres of social activity. Thus, notions of material property in seemingly immaterial work are both diverse and conflicted.

Notes

[1] See http://www.quantcast.com/deviantart

[2] See again Palfrey and Gasser (2008). Note however that in their more empirical work they present more diversity of viewpoints on how youth see property. See Palfrey et al. 2009.

[3] Such as those of Mark Rose (1993), Martha Woodmansee (1996), or Adrian Johns' (2010) recently published history of piracy.

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