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Response to Reasonable Appropriation and Reader Response—Laura A. Heymann

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INTRODUCTION

When is reuse innovative, and when is it merely mimicry? What kinds of reuse are transformational and what kinds derivative? Laura Heymann tells us: It depends. Assessing the legitimate reuse of work depends on a range of parameters, including the nature of the original work, the creative expression of the authors (the original as well as the copiers and transformers), and the contexts of circulation and interpretation. This last element takes us into some deep waters.

Heymann’s investigations into authorship, authenticity, and attribution begin from the literary theories of authorial context and reader response, but her argument ends up moving us far beyond a literary theoretical context. Simply put, Heymann argues that, in order to achieve a robust understanding of cultural citation, appropriation, parody, and other kinds of reuse, courts need to “situate themselves as part of an interpretive community.”¹ Reminding us that any investigation of “transformative use” is always an interpretive exercise, and insisting on the irreducible historical, political, and social complexity of interpretive communities, Heymann sketches a far-reaching argument. Here, I attempt to follow her argument and find that it not only makes copyright litigation more onerous for courts, but leads us into difficult yet urgent political debates.

Reasonable observers, Heymann argues, cannot simply be conjured out of judges’ common sense. Our notions of reason and common sense are embedded in histories of power. The very invisibility of those fields of power to many reasonable observers is a mark of its successful embedding in common sense, and a reminder

1. Laura A. Heymann, *Reasonable Appropriation and Reader Response*, 9 U.C. IRVINE L. REV. 343, 365 (2019).

of the need to dis-embed its histories in order to enable a full interpretation. Thus, entering into an interpretive conversation plunges reasonable interpreters into a complex, interdisciplinary field, whose full understanding requires them to assess the meaning and implication of histories of colonialism, the politics of race and sexuality, and the changing political economy of music and art in a digital age.

This is a tall order, but it is also a just one. Each of Heymann's cases of cultural appropriation—familiar not just to legal scholars but to anyone who follows the cultural press—paints a picture of society that differs from idealized notions of a uniform social domain in which consensus is reached among rational actors. This is a society made up, not of atomized identical individuals who come to make claims in an abstract liberal domain of justice, but of impassioned actors in a field riven with power, politics, identity and history. We do not have a free market of formally equal voices and practices. Instead, we have a stratified, global field of sharing, copying, and reuse. Sharing, copying, and reuse are not just derivative acts; they are complex acts of creation that make up our collective public sphere as well as our individual subjectivities. To understand these processes fully, a reasonable observer would need to know more than a few disciplines. The observer would need to take seriously not just liberal theories of jurisprudence, but also political claims to reparation and justice, and radical demands for the correction of historical wrongs and structural inequalities. Herein lies the promise and the peril of Heymann's recommendation.

An interdisciplinary explosion transformed the Humanities and Social Sciences in the late twentieth century. Literary theory, influenced by continental philosophy, turned to political and historical analyses of interpretive communities in order to understand the meaning and impact of cultural texts. In an intellectual sense, this move seemed to be, in the late twentieth century, a historically responsible way to come to terms with the legacy of the Enlightenment.² On the other hand, academia itself has proved unable to handle the pedagogical and political implications of this explosion.³ The Humanities have reached crisis point around some of the challenges of this interdisciplinarity: How should we teach students this messy domain of history and critique? How will we maintain rigor and method if we dissolve the walls between disciplines? Will this open-ness to the politics of the public not open us up, too, to the specters of extremism, partisanship, ideology, and conspiracy theory that lurk in the public domain? Humanities classrooms, while becoming more radically open to formerly disenfranchised voices

2. JUDITH BUTLER, *GIVING AN ACCOUNT OF ONESELF* (2011); MAX HORKHEIMER & THEODOR W. ADORNO, *DIALECTIC OF ENLIGHTENMENT: PHILOSOPHICAL FRAGMENTS* (2016); JUST BEING DIFFICULT? *ACADEMIC WRITING IN THE PUBLIC ARENA* (Jonathan Culler & Kevin Lamb eds., 2003).

3. ALLAN BLOOM, *THE CLOSING OF THE AMERICAN MIND: HOW HIGHER EDUCATION HAS FAILED DEMOCRACY AND IMPOVERISHED THE SOULS OF TODAY'S STUDENTS* (2012); Oliver Conolly & Bashshar Haydar, *Literature, Politics, and Character*, 32 *PHIL. & LITERATURE* 87 (2008); PAUL JAY, *THE HUMANITIES "CRISIS" AND THE FUTURE OF LITERARY STUDIES* (2014).

and radical arguments about liberalism, have also become the staging ground for some of the most difficult, often paralyzing, conflicts in the cultural sphere. If the most open-ended forms of academic experimentation have foundered on the rocks of interdisciplinary analysis, is it perhaps too much to expect courts, with their legacies of liberal jurisprudence as well as the inherently practical, time-bound nature of litigation, to enter this tangled domain? Heymann acknowledges that there is a high cost to opening up this conversation, in terms of the intellectual work and litigation time it would involve for courts to situate themselves as part of an interpretive community with all its tangled politics. Yet she sees this path as potentially leading to “the better outcome for the development of fair use doctrine.”⁴

Laura Heymann’s paper is radical in its implications (although she presents it to us, via reader-response theory, in eminently reasonable, un-radicalized terms). We, her audience, are invited to be her reasonable reader. Yet, she raises, along with a range of rational, reasonable responses, the specter of unreason and passion. In other words, she opens the door to politics. How might we fully understand and adequately address the challenge Heymann articulates?

Heymann’s challenges to common-sense interpretation and reasonable observers are embedded in what I would characterize as three insights about fair use. In addition to the judicious tracing of the specific content of use and its borrowings among particular individuals, courts will need to attend to three fundamental elements of the cultural landscape in which use occurs: (1) The act of copying is fundamental to creativity; (2) the constant operation of hegemony and power are fundamental to cultural practices; and (3) interpretive routes through the understanding of critical histories of power will be fundamental to future improvements in fair use doctrine. These are the insights I draw from Heymann’s analysis. Let us look briefly at the challenges each of these three observations presents.

I. COPYING IS FUNDAMENTAL TO CREATIVITY

Copying, as many commentators have noted, can be fundamental to creativity, cultural production, and even identity creation. Inherent in the fair use doctrine is the complicated, contingent right to copy.

[C]opyright law gives authors certain exclusive rights to their work. These rights include the exclusive ability to reproduce or resell the work. However, the fair use doctrine, codified in federal law as 17 U.S. Code § 107, is a defense that allows an “infringer” to make limited use of the original author’s work without asking permission.⁵

4. Heymann, *supra* note 1, at 365.

5. *Fair Use: What Is Transformative*, NOLO, <https://www.nolo.com/legal-encyclopedia/fair-use-what-transformative.html> [<https://perma.cc/DW36-CDWD>] (last visited Jan. 11, 2019) (a basic definition, from the Legal Encyclopedia).

How do commonsense uses of the terms copy versus innovate, borrow versus appropriate, and repeat versus interpret, indicate implicit hierarchies between those who create meaning and those who rip it off? Who copies? How, why, and where? Heymann reminds us that “the act of appropriation could itself have been seen as a communicative act,” bringing into our view the cultural practices of copying, commenting, mimicking and parodying in terms of a field of power that is drawn through long histories of race, colonization, and economic globalization.⁶

Citing Olufunmilayo Arewa, Heymann dissects the ways in which political visibility and voice shape our labeling of copying practices. Privileged shapers of culture can depend on the historically circumscribed spaces of non-western cultures to enable their own practices, often collecting and curating “marginal” material, to appear innovative. Arewa argues, for example, that a “[l]ack of familiarity with African American music and culture in the broader American society has given collectors of such culture and other intermediaries tremendous power and latitude to curate cultural material.”⁷ Conversely, the 1937 version of “Loch Lomond” by African-American jazz vocalist Maxine Sullivan was called “sacrilegious” by a Detroit radio station manager because a disenfranchised population is not assumed to have rights to reinterpret or curate the culture of the mainstream.⁸

In early 2018, a social media meme swept through Indian design blogs, referring to the European designer Christian Dior as “Unchristian Dior.”⁹ The meme, critical of cultural appropriation practices, originated from the studio of Indian artist Orijit Sen, highlighting the apparent theft of a fabric design by Dior. A Dior dress appeared to have copied a block print design from Sen’s own reinterpretation and recasting of Indian artisanal patterns. Although Orijit Sen is a well-known Indian artist and designer, his small business is not a capital-intensive operation, and the social media campaign could only bring a naming-and-shaming strategy to the controversy, since international litigation would be prohibitively expensive and time consuming. Reuse, appropriation, and copying by strong western state and market forces is an almost unstoppable problem, largely because of the historical and economic gulf between them and the developing world’s poor innovators. The Indian daily *Mid-Day* reported on his copyright-skepticism:

Sen does not support the idea of copyrighting original designs to safeguard himself from plagiarism. “Art is the free-flowing exchange of ideas. Would

6. Heymann, *supra* note 1, at 362.

7. Olufunmilayo Arewa, *Curation, Music, and Law* 19 (Mar. 15, 2017) (manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2932520 [<https://perma.cc/QNC7-597U>].

8. PATRICK BURKE, *COME IN AND HEAR THE TRUTH: JAZZ AND RACE ON 52ND STREET* 99 (2008) (cited in Heymann, *supra* note 1, at 361 n.104).

9. Sreyoshi Guha, *People Tree v. Dior: IP Infringement, Cultural Appropriation or Both?*, SPICYIP, (Feb. 1, 2018), <https://spicyip.com/2018/02/people-tree-v-dior-ip-infringement-cultural-appropriation-or-both.html> [<https://perma.cc/FLU5-GWA6>] (arguing that the issue highlights the “need to revisit the legal framework” of “Traditional Cultural Expression”) The Indian design studio ‘People Tree’ reached an out-of-court settlement with Dior in May 2018, but a non-disclosure agreement restricts details.

I rather concern myself with protecting it? Instead of supporting and honouring Indian crafts and textiles, they [big labels] are feeding off our hard labour,” he said.¹⁰

A *Washington Post* reporter noted the importance of Sen’s design work with traditional craftspeople, in which he brought original design elements and marketing contexts to their historical weaving, dyeing and printing skills:

Sen said working with Indian artisans and reviving traditional crafts like blockprinting is at the heart of his work as an artist. His designs, he said, put a contemporary twist on traditional artworks so that artisans can remain relevant as fashion trends change. “This feels like a huge blow to the entire idea of supporting crafts,” he said. “Despite making huge profits, big fashion houses don’t think to give back anything. It’s a generally exploitative situation.”¹¹

The ways in which individuals are figured as creators, authors, or innovators have much to do with their global location and their regional caste, class, and gender identities. As Indian craft ethnographer Annapurna Mamidipudi notes, “the handloom industry of India once ruled world markets.” But present-day global market paradigms make individual producers “disappear,” even while pushing design and production overhead costs “further down the value chain, marginalising the producer and recasting his [sic] image as ineffective, and an object of welfare[.]” (Mamidipudi 2006, p 3393).¹²

When marginalized actors do not have the means to contest the terms under which copyright can be claimed and defended, they often look to the grey zones of copyright infringement and illegal copying. In resistance to the structural unfairness of western intellectual property regimes, many Global South scholars have studied the ways in which “Third World” actors deploy piracy and un-authorized copying as a “postcolonial tactic” to reappropriate cultural products.¹³ In these studies, copying (in fair, and sometimes illegal, reuse) is understood as fundamental to the ways in which developing countries, low-bandwidth populations, the poor and digital-divide-excluded, have participated in and caught up with, or leapfrogged over, gaps or inequities. They appropriate cultural and technological resources as part of the process of becoming part of the global economy. Scholars in the field of “postcolonial piracy” argue that this is justified because of the history of appropriation of Global South resources by colonizing powers.

10. Shweta Shiware, *Did Dior Lift Sonam Kapoor Dress Print from Indian Design Studio?*, MID-DAY.COM (Jan. 24, 2018, 8:40 AM), <https://www.mid-day.com/articles/did-dior-lift-sonam-kapoor-dress-print-from-indian-design-studio/18970195> [<https://perma.cc/69LE-7YG5>].

11. Vidhi Doshi, *Where Have I Seen That Dress Before? Indian Designer Accuses Christian Dior of Stealing His Ideas*, Feb. 1, 2018, WASH. POST, https://www.washingtonpost.com/news/worldviews/wp/2018/02/01/where-have-i-seen-that-dress-before-indian-designer-accuses-christian-dior-of-stealing-his-ideas/?utm_term=.0955b92283de [<https://perma.cc/P5FC-4CQC>].

12. Annapurna Mamidipudi, *Transitioning Markets: Transcending Consumption*, 41 *ECON. & POL. WKLY.* 3388, 3393 (2006).

13. *POSTCOLONIAL PIRACY* (Anja Schwarz & Lars Eckstein eds., 2010).

Without getting into the weeds with advocates of “postcolonial piracy,” we can see that political communities of interpretation around cultural authorship and its historical contexts are attempting to reframe debates over creative reuse and legitimate authorship.¹⁴ Many Global South actors see well-intentioned Global North legal regimes for author-protection and design-oriented marketing as simply perpetuating historical injustices. The structural problems to recognizing authorship and creativity in areas distant from advanced market centers lead some actors to lose trust in the legal system, and instead pursue a range of semi-legal modes of resistance to copyright. Illegal copying is today not simply a marginal aberration in an otherwise fair landscape of reuse; the practice of copying in all its forms, legal and illegal, is a fundamental element in the landscape of cultural production. Legal fair use and its cousin, illegal copying, thus, do not stand in opposition to each other in practice, but develop in tandem, imbricated with each other, connected by structural and historical elements that are often invisible to courts. Although the study of piracy has generated a large scholarly interpretive community,¹⁵ courts do not have an easy way to consider such historical arguments in actual litigation. Translation work—from academic theory and digital-activist practice to legal discourse and back—could address this gap, if an interdisciplinary interpretive community were to grow in this area.

II. HEGEMONY AND POWER ARE FUNDAMENTAL TO CULTURAL PRACTICE

In 2LiveCrew’s ‘rap translation’ of *Pretty Woman*, in Coco Fusco’s defense of abstraction in artist Dana Schutz’s controversial *Emmett Till* piece, and in Madhavi Sunder’s work on the economic force of the public domain with respect to traditional knowledge, race, gender, sexuality, and histories of socioeconomic inequality play a major role in the shaping of interpretive communities of creation and reuse. All this evidence suggests that hegemony and power are fundamental to the cultural domains in which fair use is practiced and legislated. Laura Heyman’s own previous work on the reasonable observer, in which she critiques the conception of “the reader” as “a unitary being, with no gender, race, sexuality or class” raises quite explicitly the problem of claiming a false universalism to a particular voice.

To adequately address the broader challenge posed here, we would have to follow conflicts over cultural resources to the political and economic system

14. LAWRENCE LIANG ET AL., *INVISIBLE LIBRARIES* (2014).

15. See, e.g., PAT CHOATE, *HOT PROPERTY: THE STEALING OF IDEAS IN AN AGE OF GLOBALIZATION* (2005); ADRIAN JOHNS, *PIRACY: THE INTELLECTUAL PROPERTY WARS FROM GUTENBERG TO GATES* (2010); BRIAN LARKIN, *SIGNAL AND NOISE: MEDIA, INFRASTRUCTURE, AND URBAN CULTURE IN NIGERIA* (2008); *MEDIA PIRACY IN EMERGING ECONOMIES* (Joe Karaganis ed., 2011); RAVI SUNDARAM, *PIRATE MODERNITY: DELHI’S MEDIA URBANISM* (Routledge 2009); Lawrence Liang, *Porous Legalities and Avenues of Participation*, in SARAI READER 05: BARE ACTS (Monica Narula, Shuddhabrata Sengupta, Jeebesh Bagchi & Geert Lovink eds., 2005); Kavita Philip, *What Is a Technological Author? The Pirate Function and Intellectual Property*, 8 *POSTCOLONIAL STUD.* 199 (2005).

through which they come to be shared. In an important article on the public domain, Anupam Chander and Madhavi Sunder observe that “[t]he unequal tilt in the public domain’s exploitation follows naturally from the dynamics of production and commerce in a world characterized by deep inequality.”¹⁶

Conceptually related to legal debates over fair use in the cultural domain, but rarely cited by the same sets of scholars, are the global issues of intellectual property rights and patents applied to natural resources, medicines, and digital products. Following Heymann’s theoretical critique of false universalisms would take us, again, to a domain that appears fuzzy for those concerned with the immediate needs of legislative debates, but that we would have to enter in order to fully understand the structural issues at stake. Below, I draw a brief example from the patent debate in South Asia to illustrate the argument about universalisms, and to draw an analogy to the conversation Heymann wishes to shape, about copying, fair use, and appropriation.

Looking at the last three decades of debate over intellectual property rights to agrarian resources, a couple of useful points of comparison emerge. As globalization was radically changing intellectual property assumptions in the 1990s, many Southern scholars critiqued the Lockean assumptions about the ownership and improvement of property to be implicit in what they saw as a new Global North insistence on tying together property rights, free markets, and economic progress. Implicit in Southern states’ opposition to patent claims on their natural and cultural resources, were claims about the historical misunderstandings of native peoples as poor stewards or non-improvers of property.

U.S. patenting of modified strains of basmati rice, for example, was publicly justified by gesturing toward the assumption that private capital can be spurred to continual innovation only if it is awarded the rights of exclusive ownership of and profits from the physical and intellectual labor expended on its products. The Indian contestation of this and similar patents was based, most simply, on the claim that the modified strains were neither novel nor non-obvious. Until the early 2000s, the Indian Patents Act had specifically excluded agricultural and pharmaceutical inventions from patentability; the new intellectual property regimes put into place after the WTO agreements fundamentally challenged this patent policy.¹⁷ But most

16. Anupam Chander & Madhavi Sunder, *The Romance of the Public Domain*, 92 CAL. L. REV. 1331, 1373 (2004).

17. The Patents Act, No. 39 of 1970, § 3(h), § 3(i), INDIA CODE (1970) (excluding from patenting “any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals or plants to render them free of disease or to increase their economic value or that of their products” and later modified under pressure from international financial institutions and WTO member-nations); see also Yogesh Pai, *Yogesh Pai, National Law University, Delhi*, HIGH LEVEL PANEL ON ACCESS TO MEDICINES, <http://www.unsgaccessmeds.org/inbox/2016/2/29/yogesh-pai> [https://perma.cc/V75U-F8R7] (last visited Jan. 11, 2019) (noting at the conclusion of the United Nations Secretary General’s High Level Panel on Access to Medicines that “India’s approach towards balancing patent rights and public interest is not divorced from procedural fairness,” that “India is among the few countries which allow

profoundly, a Southern activist argument rested on a premise of historical accountability and the right to demand reparations for past injustices. This historical argument, most commonly articulated by agrarian activists and radical anti-IP scholars, suggested that the North had achieved access to the South's raw material—indigenous basmati strains, developed by Indian farmers over centuries of experiments in plant breeding—only by virtue of the force of arms and the power of a colonial state that had, centuries earlier, postulated inherent native laziness and indigenous incapacity to productively “improve” nature. Embedded in this debate, then, were historical questions about power and ideology—questions that the law was ill equipped to handle.¹⁸ Hence the frequent irruptions of this debate on the street through the 1990s.

When history, inequality, and power undergird cultural practices, and when new political economic regimes are being put in place that build on these historical structures, it is inevitable that people will take to the streets if they feel that courts and states have rendered them voiceless. Their modes of articulation lie, technically speaking, outside the specific legislative problems we are focused on. The only way to hear their critiques is by enlarging our framework from the constitution of interpretive communities to the historical constitution of political communities. Although this is a messy prospect, such an effort might help initiate the robust conversation Heymann calls for.

III. CRITICAL HISTORIES ARE FUNDAMENTAL TO IMPROVING FAIR USE DOCTRINE

Heymann insists that we see critical, historical, political arguments not as marginal, ideological chatter on the edges of rational legal discourse, but as interpretive claims central to the ways in which fair use and copyright law are currently conceived, and as crucial conversations whose outcomes will be crucial to the shape of future litigation.

Heymann also argues that courts need to situate themselves as part of an interpretive community. She calls for a conversation and acknowledges that the costs of this difficult process are not hers to bear. Scholars and courts alike might need to think more deeply about those costs. Who bears them? What are the modes and practices that such a “situating” might call for?

both pre-grant and post-grant opposition,” and that “[t]hese provisions provide broad standing for interested parties, including public health groups”).

18. Mark W. Janis, *Book Reviews*, 6 B.C. INT'L & COMP. L. REV. 355, 357–58 (1983) (quoting MOHAMMED BEDJAOU, *TOWARDS A NEW INTERNATIONAL ECONOMIC ORDER* 127 (1999)) (discussing that these histories, along with the popular and activist opposition to globalization, do indeed have implications for international law; in other words, historical claims about power can affect the practice of law, and Mohammed Bedjaoui, a former President of the International Court of Justice, called earlier in the twentieth century for a revolution in international law that would give prominence to “the principle of equity (which corrects inequalities) . . . [and its objective would be] reducing, and . . . even eradicating the gap that exists between a minority of rich nations and a majority of poor nations”).

Feminists and postcolonial scholars, on whom Heymann draws, have offered critiques of reader response theory that takes it to complex, critical, productive debates. But this critical space is politically fraught. Its terrain emerges by fusing advocacy, activism, politics and the production of knowledge and truth itself. When we think of how to read Maxine Sullivan's appropriation of Loch Lomond as different from Dana Schutz's or Prince's alleged de-humanization of their subjects, we bring our prior political histories and convictions to these stories. We bring an impure mix of identifications, nationalism, particular and universalist, humanist or anti-humanist commitments to it. This becomes a critical historical engagement. Thus, engagement with critical histories is fundamental to becoming a member of these interpretive communities.

Heymann's path would necessitate some breaking of the walls between disciplinary reading practices. Some of these walls were erected in the eighteenth century partially in attempt to quell and contain precisely these seemingly unreasonable specters that lurked in the popular public sphere. The early twenty-first century is a particularly fraught time to break down these walls and usher in the diversity of thought that flourished in the late twentieth century. On one hand, post-humanist academics have explored the productive use of destabilizing traditional liberal thought, via the expansion of critical theory and decolonizing epistemologies. The implications of their work include the possibility that our liberal notions of jurisprudence are built on unacknowledged privilege and partial perspectives. On the other hand, the rise of populism and nationalism in Europe, Asia, and North America suggests a majoritarian move toward closure, and a fear of destabilization rather than an opening up of cultural discourse. As conservative news anchor Tucker Carlson exclaimed in March 2018, in an anti-immigrant diatribe that went viral, globalization and demographic change have produced majoritarian anxiety: "This is more change than human beings are designed to digest. This pace of change makes societies volatile. Really volatile, just as ours has become volatile."¹⁹ Although this kind of everyday populist anxiety might seem far from the concerns of copyright and cultural production, I suggest that Heymann's paper forces us to risk thinking and acting boldly at the unstable threshold between the decolonizing desires of academic interdisciplinarity and the recolonizing forces of populism.

But how would courts even begin to be a part of this broad interdisciplinary conversation? In conclusion, I'd like to draw by analogy from the solution Anupam Chander and Madhavi Sunder propose in "The Romance of the Public Domain." Chander and Sunder call for the creation and nurturing of in-between spaces, neither fully public nor fully privatized, to get around the problem of public sphere appropriation of indigenous and marginalized peoples' resources by private, for-

19. Michael Harriot, *Tucker Carlson Explains Why White People Aren't 'Designed' to Live Around Immigrants*, ROOT (Mar. 21, 2018, 9:11 PM), <https://www.theroot.com/tucker-carlson-explains-why-white-people-arent-designed-1823973839> [<https://perma.cc/32GH-42TG>].

profit actors. By analogy, I would point to the necessity of nurturing the “in-between infrastructures and practices” that we need if we want to situate law within global interpretive communities. We need communicative infrastructures among scholars, activists, and policy-makers, situated all along the global axes of privilege, and in all the legal realms that have experienced such rapid change since the end of the Cold War and the economic globalization of the late twentieth century.

How might we think about in-between infrastructures for the conversations Heymann wants between/among courts and communities? How should courts and lawmakers become practitioners of these critical historiographies and politics? What would it mean to belong to these communities in terms of owing certain kinds of engagements to activist and interpretive communities, and participating in those communities’ political, ethical discussions? As Heymann indicates, broadening our frame to consider histories of inequality may forge an unwieldy conversation with heavy burdens.

Above I have drawn from examples of copyright, illegal sharing, and patent conflict in South Asia. I have, in this conversation, breached the technical parameters of the field of copying and fair use, perhaps increasing the burdens of this conversation, and risked losing Heymann’s focus on music, art, and cultural production. But, when we broaden our analytical frames, we might find that scholars, activists, and policy makers around the world have already begun to shape the conversation Heymann calls for. I hope to have indicated that there are, adjacent to the copyright domain, other rich fields of debate about the history and consequences of particular forms of cultural appropriation. Heymann’s call for a broader interpretive context requires, I suggest, an interdisciplinary leap whose burdens are high in terms of our own learning curve, but whose benefits for justice could be immense.