



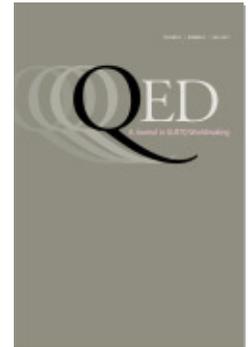
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Racial Plagiarism and Fashion

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ABSTRACT

This article attempts to chart a path out of the stultifying binary oppositions of “cultural appropriation” and “cultural appreciation” with regard to fashion and beauty forms and practices. “Racial plagiarism,” this essay argues, is a more precise analytic framework for understanding and critiquing the kinds of copying that happen in fashion and beauty contexts than either of the previous terms because it achieves a number of things: (1) it attends to the non-illegal but not unproblematic status of this kind of unauthorized copying; (2) it explicitly connects “racial plagiarism” with other forms of racial and economic exclusions that are also not illegal but not unproblematic; and (3) it demonstrates how non-legal constructions of authorship and copying produce racialized understandings of creativity and criminality.

On a Thursday afternoon in mid-September 2016, Marc Jacobs presented his Spring/Summer 2017 collection at New York Fashion Week (NYFW). His show at the Hammerstein Ballroom featured a predominantly white cast of fashion models including industry favorites Kendall Jenner, Gigi Hadid, Bella Hadid, Adriana Lima, and Karlie Kloss. Although the clothes are ostensibly the main attraction at these events, what received the most attention was the models’ hair, which was styled in fake dreadlocks wrapped in multicolored yarn (purchased from the popular craft-selling site Etsy). According to Jacobs’ stylist Guido Palau, the hairstyle’s cultural references include “the ’80s, raver culture, Boy George, and Harajuku.” When asked whether “Rasta culture was an inspiration,” Palau

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responded “No, not at all.”¹ Influential fashion magazines and blogs like *Vogue*, *Elle*, *W Magazine*, “Fashionista,” and “ManRepeller” echoed Palau’s references, furthering the citational erasure of the dreadlocks’ Black cultural history and contexts.

Jacobs’s show, its media coverage, and the brand’s social media publicity set off a furious public debate between, on one hand, those accusing Jacobs of racism, opportunism, and cultural insensitivity and, on the other hand, those defending him on the basis of artistic freedom, multicultural exchange, anthropology,² reverse racism, and not sweating the small stuff. These debates are typically cast and often dismissed as just another skirmish in an old and deadlocked battle between the “cultural appropriation” and “cultural appreciation” camps.

The problem with these terms, as the Jacobs example demonstrates, is that they have lost whatever explanatory value they had. Rather than clarify the issues at hand, they rest on and reproduce a number of conceptual confusions. To begin, “cultural appreciation” gives too much weight to the designer’s feelings—their good feelings, good intentions, or “appreciation” for another culture—and no weight at all to other feelings. Feelings that fall outside the cultural appreciation framework are rejected as hypersensitivity reactions or “hater” feelings unfairly directed toward the well-intentioned or at least not ill-intentioned designer. Conversely, “cultural appropriation” too quickly reduces the problem to one of utility. The definition provided in the Fashion Institute of Technology’s 2017 Summer Institute program schedule is one of countless examples of the common understanding of the term: “Cultural appropriation is the use of elements of a culture by nonnatives of that culture.”³ But “use” is at once too sweeping and too partial a description—a problem that has led to such ridiculous arguments as the one that erupted on Instagram comparing Jacobs’s use of dreadlocks to non-Japanese people eating sushi.⁴ (Both Jacobs’s critics and supporters agreed that cross-cultural eating was a form of cultural appropriation though they disagreed on whether that proved cultural appropriation was a good or bad thing.) Cultural appropriation and cultural appreciation function as euphemisms that distort to the point of unintelligibility the very thing designers are doing when they “appropriate/appreciate.” Rather than continue to rely on these euphemisms, I suggest a different tack. A more precise formulation for these kinds of practices of unauthorized and uncredited fashion copying is what I call *racial plagiarism*.

In his book *Copyrights and Copywrongs*, Siva Vaidhyanathan describes the difference between plagiarism and piracy this way: “Piracy is an offense created by the notion of copyright. It could not exist as a concept without the granted monopoly of copyright that it violates. Plagiarism is much older and more complex. It comes in many forms. . . . Plagiarism is more often than not an unrequested and uncredited use of another’s ideas. . . . It can deny the originators

credit, fame, professional advancement, and honor.”⁵ In other words, a plagiarized copy is an unauthorized copy that does not necessarily violate copyright law.⁶ Much of what is commonly understood in the United States as fashion design piracy is actually plagiarism because fashion design, in its entirety, is not copyrightable.⁷ The widespread discourse (and panic) around fashion piracy criminalizes individuals and actions that are not actually criminal whereas “cultural appropriation/cultural appreciation” legitimizes what is actually copying as original creative work. And as I will elaborate below, piracy’s criminalization and cultural appropriation’s legitimization are often drawn along racial, gender, and class lines.

Racial plagiarism highlights the racial relationships and inequalities that are obscured by terms like cultural appropriation, cultural appreciation, and piracy. In the fashion context, racial plagiarism occurs when a designer copies racial and indigenous styles, forms, practices, and knowledges without permission and without giving adequate (or any) attribution to the source model and community. As with other plagiarisms, racial plagiarism covers verbatim copying (or in fashion terms, the line-by-line copying of a racially marked garment) and unacknowledged paraphrasing (a reworked but still recognizable derivative model). Luxury and designer brands—going back at least a century in the United States and much further in Europe—have routinely engaged in racial plagiarism yet these practices are rarely recognized as copying, much less plagiarism. This is an effect of the default, almost automatic way the media and the public interpret these practices through the binary logic of cultural appropriation and cultural appreciation. Cultural appropriation and cultural appreciation—two interpretations of the same process rather than contradictory concepts—foreground questions of personal feelings and intentions, blocking from view the plagiaristic nature of what designers like Jacobs are actually doing when they create looks that look like other people’s looks and then attach their own names to them. What is possibly the most pervasive and longstanding practice of copying in Western fashion and beauty histories is never recognized for what it is.

Although I argue that cultural appropriation/cultural appreciation is no longer a useful explanatory framework, this is not to say that it has no value. It produces and maintains an array of social, cultural, and economic benefits that advantage dominant groups by shielding designers from the public and media scrutiny directed towards fashion copycats. Because they are not seen as copyists (much less knockoff artists or design pirates), designers like Jacobs are able to copy with impunity without the appearance, stigma, or consequences of being a copyist. Indeed, high-end designers are routinely held up as sympathetic victims of fashion pirates or counterfeiters. From this privileged position, luxury and premium designers have asserted their right to copy racially marked designs

and styles under freedom of expression principles while suing or threatening to sue those who copy them based on intellectual property principles—all without a trace of irony, embarrassment, or public scrutiny.

The conceptual bifurcation that separates good fashion copies from bad fashion copies (or copies that are not copies because they are products of cultural appropriation/cultural appreciation and copies that are worse than copies because they are knockoffs, fake fashion, and the like) is also a racial bifurcation. Plainly put, the difference in the labeling of one act of unauthorized fashion copying as cultural appropriation/appreciation and another as a knockoff (or similar pejorative term) is the difference that race, gender, and class make in these determinations. To develop this point, I turn to a set of social media posts and interactions about Marc Jacobs's NYFW show that began on the brand's Instagram page and moved across both social media and mass media channels. As I explore in my current research, social media systems from Instagram and Facebook to online reader comments and search engine autocomplete suggestions have become key sites and tools of knowledge production and circulation about "ethical fashion."⁸ In these networked spaces, social norms about what constitutes "ethical fashion," "knockoffs," and "piracy"—and which bodies belong to these categories—are established, reinforced, and naturalized. Today, networked systems of sociality play powerful roles in shaping both the culture and business of fashion.

As is now the usual practice for fashion brands, Marc Jacobs published the first promotional photographs for its NYFW Spring/Summer 2017 show on Instagram, where it has 6.4 million followers (as of this writing). Among the various behind-the-scenes and runway photographs was a head-and-shoulder shot of twenty-year-old Taylor Hill in full hair and makeup. The white Midwestern U.S. model is pictured in pastel-colored yarn dreadlocks gathered together at the top of her head (see Figure 1). The Instagram caption accompanying the photo is a quote from Jacobs making a clumsy allusion to the hairstyle: "I like this very twisted version of what I think is reality. Because reality is just reality."⁹

As of this writing, the post has received about 33,000 "likes" and 1,219 comments. As the massive number of "likes" suggest, most of the comments are supportive. (Other Instagram posts about the show have received similarly enthusiastic responses—see Figure 2, for example.) The first few comments include such admiring sentiments as "love the hair," "very nice," and "jus [*sic*] wish I could do that." The initial reactions to the Instagram post are so positive that they provoke an Instagram user to ask, "Where are the comments for black appropriation[?]" As more users add their comments to the post, the responses become much more mixed. Some Instagrammers continue to offer congratulations to Jacobs whereas others actively protest, defend, or otherwise bait their

fellow social media users on the issues of cultural appropriation and cultural appreciation.

One of these users, Nate DeCarmo (@natedecarmo), defends the designer by contrasting Jacobs's "appropriation" with hip-hop artists' music sampling: "early hip hop sampled classic music¹⁰ . . . created by white people without giving credit or pay."¹¹ Going on, DeCarmo asserts, "That's even worse than cultural appropriation that's legally speaking, a crime, theft, but we don't speak about that. There is a whole lot of forgiveness, a lot of artists let that slide"¹² (see Figure 1). Without digressing too far into the many logical fallacies in this argument, I want to note the main ones: the law is not a measure of morality (more on this later); not all classical musicians were white (e.g., Chevalier de Saint-Georges, George Bridgewater, and Samuel Coleridge-Taylor); not all hip-hop artists are Black (e.g., Beastie Boys, The Streets); and the U.S. history of popular music is a history awash with the theft of Black musical forms, songs, and practices by white musicians, agents, and production companies.¹³ The issue of Black forgiveness does not enter into DeCarmo's argument precisely because the unauthorized copying of Black music by whites is not seen as copying, is not seen as an ethical, creative, or legal violation that requires forgiveness. And as for DeCarmo's claim of a history of white forgiveness, the long and growing list of copyright disputes involving hip-hop and R&B artists can hardly be said to be "forgiving." The most notable example is the protracted legal battle between 2 Live Crew and the Acuff-Rose Music company that wound its way to the Supreme Court in the early 1990s (over the group's parody of Roy Orbison's "Oh, Pretty Woman").¹⁴

In his imagined world of creative production "the artist" is tacitly white and law-abiding and "the pirate" is Black and criminal. (That DeCarmo himself may be a Black man—as suggested from his Instagram profile—underscores the extent to which these racial formations are ingrained and pervasive.) For DeCarmo, whether Jacobs is appreciating or appropriating a Black cultural form and practice—and his comments do offer the possibility that Jacobs is accidentally appropriating or "may slip up"—Jacobs's actions still fall within the range of normative social behavior. As DeCarmo submits, "We all appropriate cultures. . . ." The cultural appropriation/cultural appreciation framework reproduces and secures white Western men as the universal embodiment of creativity. Rather than canceling out (or, at the very least, calling into question) their creative practices and identities, copying is incorporated into these processes and identities under such names as inspiration, homage, and cultural appreciation.

Both cultural appreciation and cultural appropriation give white artists a pass to copy that is seldom extended to nonwhite artists. Black musicians who are "inspired" by Beethoven or Roy Orbison—much like Chinese or Korean

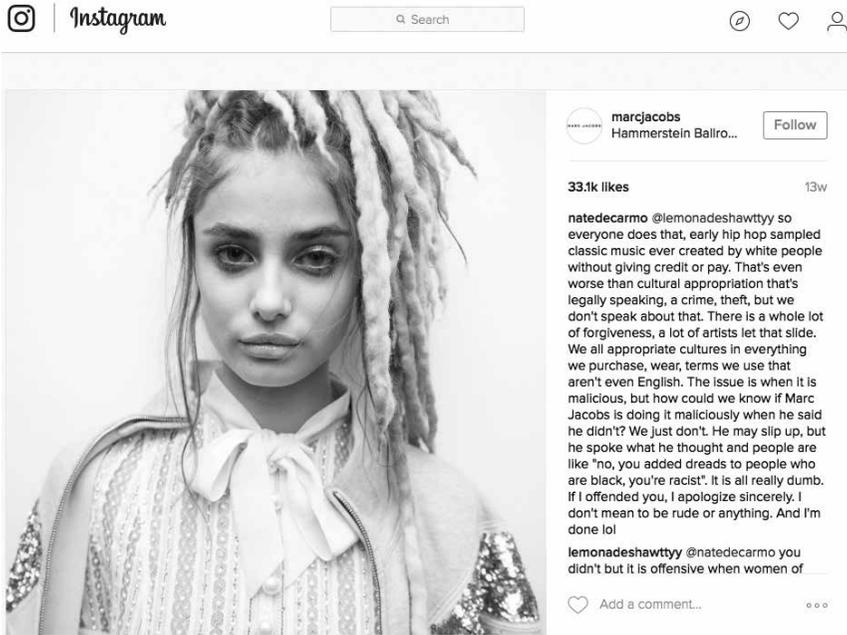


Figure 1. Screenshot of user comments to a Marc Jacobs Instagram post.

designers who are “inspired” by Marc Jacobs and Diane von Furstenberg—are rarely afforded the same presumption of creativity and innocence. It hardly matters that it is actually legal to copy fashion designs. The criminalization of copying is not a matter of the law but of social and economic power. White designers who copy are usually not accused of piracy not because the kind of copying they are doing is “better” but because they do not fit piracy’s racialized construction.

Pirate subjectivity, with its connotations of criminality and theft, is already racially gendered as nonnormative. What’s more, the popular and legal characterization of piracy as “slavish copying” is a telling indication of its racialized construction as an unmodern and subordinate economic labor category and threat. Although the white designer who copies (whether “appreciatively” or “appropriatively”) is still seen as a creative subject, is still recognized as a designer engaging in creative, cultural, or productive labor, a Black musician who copies a copyrighted piece of music or an Asian designer who copies a design that is not copyrightable are both seen as criminals. If a creative license to copy exists under the terms of cultural appropriation/cultural appreciation, it is a racial license.

The critical shift to racial plagiarism is an analytic strategy that intends to intervene in the ping-pong pattern of cultural appropriation/cultural appreciation

debates. It moves the discussion away from questions of personal intention and inspiration—unknowable or at least unverifiable and ultimately irrelevant things—to where it belongs: the fact, source, and effects of this kind of unauthorized copying. In particular, “racial plagiarism” helps to clarify the conceptual confusion surrounding “cultural appropriation/cultural appreciation” by reducing its conceptual inflation. In the popular discourse, cultural appropriation/cultural appreciation encompasses a wide and largely incoherent range of cultural practices. In addition to the unauthorized copying of ethnic and indigenous creative and cultural works, cultural appropriation/cultural appreciation is routinely applied to instances of racist language (e.g., the Washington Redskins football team name), racist representations and performances (e.g., Katy Perry’s geisha routine at the 2013 American Music Awards show), cross-cultural eating (e.g., a non-Japanese person eating Japanese food), and acts of cultural assimilation (e.g., non-Western immigrants wearing jeans and sneakers).

Gathering all these activities under the appropriation/appreciation umbrella both conflates and obscures the specific power dynamics inherent to these cultural phenomena. Its emphasis on individual feelings, intentions, and uses rather than structurally contextualized practices encourages false equivalences such as the conflation of distinct historical contexts and power relations (an emblematic example is Jacobs’s comparison of white women wearing dreadlocks to Black women “straightening their hair”;¹⁵ see Figure 2) and the collapse of boundaries between racist fictions (linguistic, visual, aural, gestural, and other stereotyping practices like blackfacing, yellowfacing, redfacing, and brownfacing) and the commodification and exploitation of actual nonwhite cultures and groups. Cultural appropriation/appreciation blurs crucial dynamics of power that, though they may be linked, are not the same, particularly the difference between the imposition and negotiation of power (e.g., the difference between appropriation/appreciation and assimilation) and the difference between racist representations and racial capitalism. “Racial plagiarism” is an effort to address some of these issues by proposing a more precise analysis of the material practice, conditions, and effects of this kind of unauthorized copying.

To meet the racial plagiarism standard, it is not enough that a racially marked object or style is used or consumed by someone who is not part of that racial or indigenous community. Racial plagiarism centrally involves and colludes in racial capitalist processes of value extraction in which racialized groups’ resources of knowledge, labor, and cultural heritage are exploited for the benefit of dominant groups and in ways that maintain dominant socioeconomic relationships. In practices of racial plagiarism, the authorial power and the capital derived from the copying are not only *not* shared with the source community, they are denied to them. Extraction and exploitation—not exchange—are at the core of



Figure 2. Screenshot of Marc Jacobs' Instagram response to critics.

this kind of copying. These are not just effects of racial plagiarism but its constitutive elements.

As a critical lens, racial plagiarism brings into sharp relief several myths and contradictions that permeate the cultural appropriation/cultural appreciation binary. First, it puts to rest the notion that “appreciation” underpins these acts of copying. Not only does racial plagiarism seize authorial identity, control, and capital away from the source community, as I’ve suggested above, racial plagiarism diminishes the value of the source material itself. Palau’s comments to *Harper’s Bazaar* about the fake dreadlocks illustrate what I mean: “The interesting thing about Marc is how he takes something so street and so raw, and because of the coloration of the hair and the makeup, it becomes a total look. Something that we’ve bypassed on the street and not really looked at, or seen a million times, he makes us look at it again in a much more sophisticated and fashionable way.”¹⁶ Palau’s high-flown account of fashion copying is revealing (and pervasive). It is never just about being inspired by but rather improving on an unrefined, unsophisticated, incomplete, and, most crucially, unfashionable racialized form. Thus, this kind of fashion copying involves gendered and classed processes of racial neutralization or whitening in which what is found in the

wild—here, “the street” with all its racially gendered and classed associations of raw dangerous masculinity—undergoes civilizing processes (e.g., “the coloration of the hair and the makeup”) that bring them within the normative sphere of white feminine beauty, taste, and commercial patterns.

Nowhere is the importance of Kobena Mercer’s caution against the “naturalistic logic” of Black hair more evident than in these kinds of rationalizations for racial plagiarism.¹⁷ Palau’s description of the “more sophisticated and fashionable” dreadlocks assumes that dreadlocks off the white feminine space of the runway (on the masculinized street) are “so raw” and have not been “stylistically cultivated”—that they are “natural.”¹⁸ Such an ordering of difference links Black hair to “nature” and white hairstyles to “culture.” This logic plays a crucial role in the long history of racial plagiarism and in the broader context of colonialism in which racial knowledges and practices have often been treated as raw materials free for the taking. Yet Black hairstyles and other nonwhite cultural and aesthetic forms are not raw materials. As Mercer puts it: “[H]air is never a straightforward biological ‘fact’ because it is almost always groomed, prepared, cut, concealed and generally ‘worked upon’ by human hands. Such practices socialize hair, making it the medium of significant ‘statements’ about self and society and the codes of value that bind them, or don’t.” Again, the assumption that Black aesthetics are natural, raw materials that are not yet “a total look” until styled by and for white bodies is not just racist, it is colonialist. It cuts them off from their historical context—in this case, the dreadlock’s aesthetic, semiotic, cultural, social, and political economies—and subjects them to capitalist logic and its cycles of obsolescence. In other words, racial plagiarism displaces the source community’s value system, authorial power, and its evaluative authority with the racialized system of commodity capitalism.

A common occurrence in instances of racial plagiarism is the subtle or outright rejection of the value judgments, feelings, and concerns that members of the source community have about the copy. It is telling, for example, that although Jacobs, the media, and social media users told Black women in subtle and explicit ways to get over their objections and outrage, numerous media stories emphasized the feelings of Jena Counts, the white woman and Etsy seller who created and sold the locs seen in Jacobs’s show. The *New York Times* literally gives Counts the last word on the subject, ending its article about the controversy with her statements about her feelings: “‘It is so hurtful to me,’ she said of the online comments. ‘It was never in my head that it would be brought up as an issue. I don’t understand why they would react that way.’”¹⁹ Counts’s words minimize and sideline Black people’s concerns about the commodification and circulation of Black hairstyles as an irrational reaction that “they” have (“I don’t understand why they would react that way”). Like Jacobs’s Instagram response,

Counts's reaction exposes the lie that these kinds of copying have anything to do with "appreciating" another's culture (much less the source community's feelings or thoughts about the production and circulation of their cultural materials). Instead, what is widely lauded as "cultural appreciation" often produces multiple processes of cultural, social, economic, and emotional depreciation.²⁰

If racial plagiarism is not about cultural appreciation, it is also not about cultural sharing and diversity. The second issue that this analytic lens puts into focus is the ways this kind of copying produces social and material enclosures rather than cultural exchange. When commercial designers, particularly influential designers like Jacobs, copy racial forms and styles and sell it as their own products, they claim authorial control not only of the racial form or style but also of its public meaning and significance. Recall that the mainstream media coverage about Jacobs's show repeated, often without question or qualification, the brand's citational account of the hairstyle's history and significance and, further, that one of the primary ways that social media users defended Jacobs was by calling into question the Black origins of dreadlocks. It is not just that Jacobs's authorial position and power to control the history and meaning of dreadlocks is made primary but that its primacy is connected to the delegitimization of Black authorial voices and positions.

As well as obstructing Black authorial control, Jacobs's copying produces other kinds of enclosures. Contrary to the popular opinion that cultural appropriation/appreciation participates in and promotes the public exchange of cultural ideas and goods, these practices actually close off or limit access to important public spheres like the media, the fashion and hair markets, and the labor markets for fashion models and hairstylists. The dreadlocks on Jacobs's models were styled by a white British man (Palau) using fake locs created and sold on Etsy by a white woman from Florida (Counts). The long history and industry of Black hair styling as well as the cultural and social significance of hair for Black women are shut out of Jacobs's show.²¹ Recalling Mercer's point that hairstyles are always "'worked upon' by human hands," Jacobs's racial plagiarism makes two things clear—first, that mainstream fashion subsumes and devalues the cultural work Black women (and their hands) do, and second, that the benefits and power of racial plagiarism are largely held in the hands of white people. Nonwhite people's racial plagiarism is almost never as lucrative or as exalted. As I expressed earlier, the creative license to copy is a racial one.

As well as Black hairstylists, Jacobs's racial plagiarism also shuts out Black models from a modeling job, from the accumulation of prestige that comes from working with a luxury brand, and from the potential of future jobs as a result of the loss of opportunities for increased visibility, experience, and prestige.

Moreover, his copying closes off—or at least closes further—the boundaries of normative beauty with regard even to dreadlocks.

As many social media users have pointed out, Jacobs's/Counts's dreadlocks do nothing to increase the acceptance or reduce the surveillance of Black women and men who wear their hair in dreadlocks. In fact, racial plagiarism and its logic of cultural improvement depend on this inequality. The negative connotations of Black dreadlocks—its presumed incompleteness before Jacobs transforms it into a “total look”—are precisely why his fans love and admire his version. Jacobs's transformation of dreadlocks into fashion (the feminine sign of the modern) depends on the presumption of their inherent unfashionableness (a masculine sign of the primitive). As Caren Kaplan has put it, underdevelopment is “the imaginary resource of the exotic.”²² Such myths of cultural exchange or what Kaplan calls “fantasies of boundarylessness . . . only reinscribe essentialized difference.”²³ In acts of racial plagiarism, the look and meaning of whiteness is dynamic whereas racial difference and the sociocultural hierarchy built on it remains fixed.

Finally, the critical shift from “cultural appropriation/cultural appreciation” to “racial plagiarism” helps to clarify, I hope, how these practices matter. The all-too-common response that the outrage about “just hair” or “just fashion” is silly or misplaced is reflective of the gendered construction of cultural politics. The issue of copying in “masculine” creative fields is rarely ever dismissed on the basis that it is “just” literature, music, or film. Through the analytic lens of racial plagiarism, what I've tried to put into focus is not only why these types of copying matter but also how they come to matter in relation to the structures, processes, and norms they reproduce and maintain. If cultural appropriation/appreciation are not obviously political terms or practices, plagiarism is. Plagiarism can be politically oppositional or progressive. But it is always political, always enmeshed in power relations of, broadly speaking, authorial proprietorship and impropriety. My effort to think through *racial plagiarism* is an attempt to highlight the matrix of race, gender, capital, and power that it embeds and embodies.

NOTES

1. Kathleen Hou, “Marc Jacobs Models Wore Dreadlocks from Etsy,” *The Cut blog*, September 15, 2016, accessed July 27, 2017, <http://nymag.com/thecut/2016/09/marc-jacobs-spring-2017-models-wore-etsy-dreadlocks.html>.
2. Among the vast array of the dreadlock's origins that Jacobs's Instagram supporters cite are druids, Vikings, Indians, “Germanic people,” Egyptians, pharaohs, Greeks, Minoans, and cavewomen. See “Marc Jacobs,” Instagram page, accessed July 27,

2017, <https://www.instagram.com/p/BKZlq9NDbtS/>. The pains they take to name seemingly any group other than Jamaicans and Rastafari is telling of the racial logics of erasure that underpin both “cultural appropriation” and “cultural appreciation” arguments. We see this logic taken to its extreme nearly a year later in a photograph taken by DeVante Cunningham of a white supremacist wearing dreadlocks at a KKK rally. While many who shared the photograph online saw it as an irresolvable contradiction [e.g., “A klansman with dreadlocks y’all. . . . A KLANSMAN WITH DREADLOCKS” (see Black Aziz Ansari Twitter post, July 8, 2017, accessed July 27, 2017, <https://twitter.com/Freeyourmindkid/status/883885801410637825>) and “Should we tell him what culture those came from?” (see Nikki Brinks Twitter post, July 8, 2017, accessed July 27, 2017, <https://twitter.com/NikkiBirnks/status/883886005102817280>)], I suggest that white dreadlocks on the street (say, at a KKK rally) are consistent with—though certainly not the same as—white dreadlocks on a fashion runway. Black erasure is a function of both cultural practices.

3. Quoted from the program schedule for the Summer Institute at FIT 2017, “a four-day series of lectures, discussions, panels, and hands-on workshops focusing on sustainability and technology in fashion and textiles.” “Full Program,” The Summer Institute at FIT webpage, accessed July 27, 2017, <https://www.fitnyc.edu/summer-institute/program.php>.
4. “Marc Jacobs,” Instagram page.
5. Siva Vaidhyanathan, *Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity* (New York: New York University Press, 2001), 67–68.
6. Ironically, on the same day that Jacobs presented his not-illegal copied hairstyle to the world, the U.S. Circuit Court of Appeals found that terminating employees who wear their hair naturally in dreadlocks is perfectly legal. See *EEOC v. Catastrophic Management Solutions* 14–13482 (11th Cir., September 15, 2016).
7. Although fashion design is not one of the categories of creative work protected under Section 102 of the U.S. Copyright Act, certain features of fashion may be protected as trademarks, by design patents, and by trade dress laws (e.g., brand names, logos, textile prints).
8. As I’ve written elsewhere, the category of “ethical fashion” emerged as part of a broader trend of sustainable design during the 1970s energy crisis. The escalating price of oil pushed scientists, designers (architects, urban designers, and interior designers), engineers, entrepreneurs, and consumers to seek out low-impact and energy-efficient materials and methods of production and consumption. Fashion designers beginning with Katharine Hamnett in the late 1980s and Stella McCartney and Linda Loudermilk in the 1990s and early 2000s brought the principles and concerns of ethical design into fashion. Today, the term is used popularly and commercially to refer to clothes produced and consumed under “ethical” conditions in terms of environmental impact, workers’ rights and safety, and animal rights issues. But because there is no industry standard for what constitutes “ethical” fashion, the term’s uses and meanings are diverse and often unclear. Moreover, its unrestricted and unregulated use has made it susceptible to cooptation by fashion brands and

- consumers as a commercial and personal branding strategy. For more on the problems of “ethical fashion,” see Minh-Ha T. Pham, “Feeling Appropriately: On Fashion Copyright Talk and Copynorms,” *Social Text* 34, no. 3 (2016): 51–74.
9. “Marc Jacobs,” Instagram page.
 10. It’s unclear what “classic music” means in this context—classical music (e.g., Nas sampling Beethoven’s “Für Elise” or Ludacris sampling Dvořák’s “Symphony No. 9”) or classic rock music (Ice T sampling Led Zeppelin’s “Whole Lotta Love” or Geto Boys sampling Pink Floyd’s “Money”).
 11. “Marc Jacobs,” Instagram page.
 12. *Ibid.*
 13. For more on the history of Black music and intellectual property, see K. J. Greene’s excellent work on this topic.
 14. *Campbell v. Acuff-Rose Music*, 510 U.S. 569 (1994).
 15. “Marc Jacobs,” Instagram page.
 16. Jenna Rosenstein, “How Will the Internet React to Marc Jacobs’ Rainbow Dreadlocks?” *Harper’s Bazaar*, September 18, 2016, Last accessed July 27, 2017. <http://www.harperbazaar.com/beauty/hair/news/a17691/marc-jacobs-models-dreadlocks-nyfw-spring-2017/>.
 17. Kobena Mercer, “Black Hair/Style Politics,” *new formations* 3 (Winter 1987): 38.
 18. *Ibid.*, 40.
 19. Valeriya Safronova, “Faux Locs, a Real Uproar,” *New York Times*, September 18, 2016.
 20. For more on how racial plagiarism is rooted in and reproduces an uneven economy of feelings, see my forthcoming essay, “China Through the Looking Glass: Race, Property, and the Possessive Investment in White Feelings,” in *Fashion and Beauty in the Time of Asia*, eds. Heijin Lee, Christina Moon, and Thuy Linh Tu (New York University Press).
 21. The popular and scholarly literature on the history and politics of Black hair is extensive and growing. An exhaustive list is not possible here but some key texts include Mercer, “Black Hair/Style Politics”; Noliwe M. Rooks, *Hair Raising: Beauty, Culture, and African American Women* (New Brunswick, NJ: Rutgers University Press, 1996); Robin D. G. Kelley, “Nap Time: Historicizing the Afro,” *Fashion Theory* 1, no. 4 (1997): 339–51; and Shirley Anne Tate, *Black Beauty: Aesthetics, Stylization, Politics* (Burlington, VT: Ashgate, 2009).
 22. Caren Kaplan, “A World without Boundaries: The Body Shop’s Trans/National Geographics,” *Social Text* 43 (Autumn 1995): 59.
 23. *Ibid.*, 60.

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forms of value in digital and informational economies. Her writings on the subject appear in a wide range of scholarly and mainstream publications—most recently in *Social Text*, *American Quarterly*, *Jacobin*, and *The New Inquiry*. She is the author of *Asians Wear Clothes on the Internet: Race, Gender, and the Work of Personal Style Blogging* (Duke University Press, 2015). Her second book is tentatively titled *Social Legality: Mediating Race, Morality, and Piracy*.