

Who Owns a Dance?

Fortnite is an online multiplayer game very popular with teens. Although the game is free to play, its developers make a profit through add-on sales through the game's store. Players are encouraged to spend a couple of dollars to give their characters personality by buying a new "skin" (a different outfit), or a new celebration dance. The Fortnite dances, in particular, are especially popular. Some of the dances available for purchase are well known ("the worm" makes an appearance, as does "the robot"), but others are not. Recently, controversy has arisen over purchasable dances that are close copies of dance moves created and popularized by black artists—such as a move called the "swipe it," which appears to be a copy of a dance invented by Brooklyn rapper 2 Milly.¹ The charge, briefly put, is that Epic Games is making a profit by using the creative labor of 2 Milly without his permission and without giving him credit (or royalties) for his work.

This raises at least two relevant questions. First, are developers of Fortnite ethically obligated to share their profits with artists like 2 Milly, or to stop selling these dances unless they get the creators' permission? On one hand, if a dance is like any other piece of intellectual property, then its use by developers to make a profit appears to be a clear violation of 2 Milly's rights as a creator to control and profit from his work. On the other hand, it also seems like dancing is different from other kinds of intellectual property, and expecting developers to give credit or royalties to a dance's inventor is unreasonable—after all, no one thinks that Epic Games should be required to credit the inventor of "the robot" or to share their profits with the estate of whoever first did "the worm".

The second question is whether there is anything especially wrong with employing elements of black art and culture (and more generally, the culture of marginalized groups) for profit. On one hand, when members of relatively privileged groups monetize some aspect of a marginalized group's culture in order to profit from it, this seems exploitative—like they are treating that group merely as a cheap (or free) source of profitable resources, without taking that group's interests or perspectives into account. On the other hand, Fortnite's inclusion of these dances into their game doesn't obviously harm anyone. It doesn't seem like including these dances by black artists (among other dances) has made the black community any worse off than it would have been if they had decided not to include them. Even if Fortnite's creators found a specific way to monetize this piece of culture, they have not done anything to prevent 2 Milly or other artists from marginalized groups from profiting off of their dances in other ways.

STUDY QUESTIONS

1. What does it mean to appropriate some piece of another group's culture? Is Fortnite responsible for cultural appropriation in this instance?
2. What ethical responsibilities do the creators of Fortnite have in this case, if any?
3. Should a person who invented a dance have the right to prevent other people from using it without permission? Why or why not?

¹ <https://kotaku.com/what-fortnites-dance-emotes-may-owe-to-the-black-artist-1827760523>. Even Chance the Rapper weighed in on the matter: https://twitter.com/chancetherapper/status/1017806749028573184?ref_src=twsrc%5Etfw

