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# "Whatever I Want:" Death Grips, Disobedience and the Music Industries

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## Abstract

The experimental hip-hop group Death Grips, formed in 2010, quickly rose to prominence and signed with the major label Epic Records in 2012. Their first Epic album, *The Money Store* (2012), did well and the band appeared to be settling in to a profitable and productive relationship with the company. Yet in 2013 Death Grips released their second album, *No Love Deep Web*, online, for free, and without authorization from the label. Despite this breach of contract, Epic Records did not do the expected and seek to enforce their contract or sue for damages. Instead, Death Grips were released from their contract and allowed ownership of their recordings. By offering an account of these events and analyzing the response to them in trade journals, blogs, and interviews with the band, this thesis examines the actions of the band and the company in the context of the ongoing digitalization-driven restructuring of the music industries. My findings show that by analyzing the actions of Death Grips through frameworks drawn from media studies, popular music studies, art history, and political theory, the group can be seen as taking advantage of a contemporary process of media democratization (brought on in part by new media technologies) as a means of rebelling against their employer. This disobedience affects the group's relationships to their intellectual property rights and their rights to control their own labour. I argue that Death Grips' actions suggest new possibilities for artists' control over their work within the existing record industry and that it may be possible for other artists to take similar action, ultimately pushing toward a shifting balance of power in the record industry.

## Keywords

Death Grips, Recording Contracts, Disobedience, File-Sharing, Creative Commons, Intellectual Property, Musical Labour, Epic Records, Recording Industry, Popular Music Studies.

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## 1

## 1 Introduction

Early in the morning on October 1<sup>st</sup> 2012, the experimental Sacramento band Death Grips released their second album, *No Love Deep Web* (sometimes stylized as NO LOVE DEEP WEB, or  $N\emptyset L\emptyset V\Sigma D\Sigma\Sigma P W\Pi B$ ), which they made available to download for free thereby violating the terms of their record contract which allow Epic to control distribution of their album. Although it was known that they were in the studio working on a follow up to their critically acclaimed official debut, *The Money Store* (released in April of 2012), and that the new album was to be released in late 2012, an official date had not been announced by the label or the band. This sudden release came as a surprise, not only to fans of the band, but also their label Epic Records.

In this thesis I will outline and analyze the unauthorized release of the album *No Love Deep Web* by the band Death Grips. Why was Death Grips able to release *No Love Deep Web* without permission and suffer relatively few negative consequences? Is this exceptional, or could any contracted artist do this in the contemporary age of digital media? Death Grips' unauthorized release stands as a high-profile example of disobedience in the cultural industries. This action by the band can be used as a case study to understand deeper issues regarding how recording contracts work, copyright, ownership & authorial property, and acts of disobedience and protest over labour issues in the music industry.

The band's assertion of autonomy against their contractual obligations to Epic Records provides a lens through which we can understand the above mentioned issues in

a new way. The rarity of cases in which a party with little bargaining power (in this instance a band who has little economic and social power, but a good deal of “buzz” as well as symbolic power) openly violates a contract signed with a company that has large amounts of economic and social power without experiencing penalties or pressure to renegotiate presents a unique opportunity to analyze disobedience in this form. Although there are many academic writings on contracts, protest, and cultural labour and property, the case of Death Grips provides a rare instance of a band acting against their own contract and apparent interest. I intend to use this case as a means of understanding contracts in the music industry and the political economy of music contracts in this increasingly digital I also use the case to understand how the Internet and digitization might be enabling challenges to relations of domination and exploitation which were formerly more stable within the recording industry.

The day before Death Grips released *No Love Deep Web*, the band posted on their Facebook page (and their now deleted Twitter account): “the label wouldn't confirm a release date for *NO LOVE DEEP WEB* until 'next year sometime' the label will be hearing the album for the first time with you.”<sup>1</sup> Ten hours later the band released the album under a Creative Commons Attribution 3.0 license,<sup>2</sup> an alternative to copyright which “lets people share and remix the music, but contrary to the previous license they chose for [their mixtape] *Exmilitary*, it also authorizes commercial uses without asking

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<sup>1</sup> Death Grips, *Facebook*. September 30, 2012.  
<https://www.facebook.com/deathgripz/posts/460674763977708>.

<sup>2</sup> Gwendolynne “Death Grips stick their cock in the eye of sony music, release their new album for free, let anyone make money with it, then change their mind about it.” (*Amour and Discipline*. November 1, 2012) Accessed June 20, 2015.

permission, as long as the music is still credited to the band.”<sup>3</sup> Shortly after the release under this license, the band switched the license to a Creative Commons Non-Attribution license, which still allows for sharing and remixing of the album, but it cannot be used for commercial purposes without permission. It is unclear what caused the switch in licensing; however, it is speculated that it was to allow Epic to maintain control over the exclusive commercial rights to Death Grips' music.<sup>4</sup>

By releasing the album for free and without permission of their label, Death Grips violated key terms of their contract in a highly publicized and spectacular way. The day *No Love Deep Web* was released Billboard reported that Death Grips had accumulated over 30 million downloads of files they had shared on BitTorrent in the first half of 2012.<sup>5</sup> Although this number does not include downloads for *No Love Deep Web*, it gives an idea of the scale at which Death Grips were operating. The band with the second most downloads of the year through BitTorrent was the rock group Counting Crows who have a more established career (They had just over 25 million downloads on files available through BitTorrent). This violation was not without its consequences; after the band leaked their album and published private emails from the label, they were quickly dropped from Epic Records. Epic released the following statement in regards to their dissolving ties with the band:

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3 Gwendolyne “Death Grips stick their cock in the eye of sony music, release their new album for free, let anyone make money with it, then change their mind about it.” (*Amour and Discipline*. November 1, 2012) Accessed June 20,2015.

4 Ibid.

5 Eliot Van Buskirk, “Death Grips Top BitTorrent's List of Most Legally Downloaded Music” (*Billboard*. October 01, 2012) Accessed June 20, 2015.



Epic Records is a music first company that breaks new artists. That is our mission and our mandate. Unfortunately, when marketing and publicity stunts trump the actual music, we must remind ourselves of our core values. To that end, effective immediately, we are working to dissolve our relationship with Death Grips. We wish them well.<sup>6</sup>

Before this statement was released, many commentators on social media were already framing the incident as a “marketing and publicity stunt,” accusing the band of leaking the album for attention, especially because of the album's extremely graphic album art, which featured a photograph of a penis with the album title written on it in black ink. Although the highly publicized nature of the release was felt by some to be a ploy to gain media attention,<sup>7</sup> it also was in line with the band's aesthetic, frequently described as a blend of punk, hip-hop, and noise as well as featuring themes of nihilism, sadomasochism, death, substance abuse, and anti-establishment sentiments in both their music and their visuals. The band was also already known to engage in disobedient behaviour like this. Earlier in the year, Death Grips had announced on their Facebook page that they were backing out of all scheduled live performances, beginning on that day (May 4, 2012). This included a 37-date world tour that was to begin two weeks from then (May 18, 2014).<sup>8</sup> They did not notify anyone involved in the tour, including their own manager, publicist and label before the post was made. The fans as well as all parties

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<sup>6</sup> Jenn Pelly, "Epic Records Drops Death Grips." (*Pitchfork*. November 1, 2012.) Accessed April 10, 2015.

<sup>7</sup> Joseph Schafer, “Deconstructing: Death Grips’ *NO LOVE DEEP WEB*: Act Of Rebellion Or Publicity Stunt?” (*Stereogum*. October 3, 2012). Accessed April 10, 2015.

<sup>8</sup> Evan Minsker, "Death Grips Cancel Tour?" (*Pitchfork*. March 5, 2012). Accessed April 10, 2015.

involved in the tour's organization and execution found out about the cancellation of the tour through their social media post in May.<sup>9</sup>

Death Grips came to prominence at a time of decline in both music sales and perhaps even the reign of major labels. With the advent of the Internet, more artists are now able to create, distribute, and market their music without the need for major labels or a lot of capital. The way in which Death Grips has dissented against their label could only be possible in the Internet age. Before digital distribution, effectively self-releasing an album as widespread as *No Love Deep Web* was much more difficult for the average artist. Large amounts of capital and resources were required to create, market, and distribute physical copies of albums such as LPs and CDs; similarly, distribution was much more difficult as all the music was bound to a physical medium. Now, an artist or consumer can make near-infinite copies of their album available and release it online with relative ease and very little money. The change in technology posed problems for Epic in terms of controlling their rights over Death Grips' master recordings. When the album was released online, it was able to quickly spread into the hands of thousands of more fans, making it impossible for Epic to reclaim it. This is an issue the industry has been struggling with since the proliferation of file sharing platforms such as Napster. Death Grips provides a unique case of an artist leaking their own material rather than it being leaked by a third-party.

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<sup>9</sup> Christopher Weingarten, "Artist of the Year: Death Grips." (*Spin*. November 20, 2012), 2. Accessed April 10, 2015.

## 1.1 Theoretical Frameworks, Methodology, and Main Research Questions

This thesis uses several methods and theoretical frameworks to obtain a fuller understanding of the ways in which the release of *No Love Deep Web* and the surrounding actions of Death Grips fits within historical and theoretical contexts. As mentioned above, the leaking of *No Love Deep Web* happened in a uniquely modern, digital context. This, along with the current state of major labels as well as the state of labour, copyright, and creative commons licensing in the modern age all play an integral part in how and why Death Grips took the actions they did.

In the second chapter, commentary from trade magazines such as *Billboard* as well as music websites, blogs, and magazines such as *Rolling Stone*, *Pitchfork*, *Spin*, and others will provide valuable insight and data on how the actions of Death Grips were contextualized by the music media. All three publications reported extensively on the release of *No Love Deep Web* and will aid in providing a chronology of the events surrounding the album's release as well as who was involved. *Rolling Stone*, *Pitchfork*, and *Spin* have all also interviewed Death Grips, and *Spin* named them artist of the year in 2012. This empirical data on the group and their actions will be put in conversation with analysis of the changing state of the recording industry. Analysis by Stahl and Meier<sup>10</sup>

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10 Matt Stahl, and Leslie M. Meier, "The Firm Foundation of Organizational Flexibility: The 360 Contract in the Digitalizing Music Industry." *Canadian Journal of Communication* 37 (2012): 442.

Holt,<sup>11</sup> Meier,<sup>12</sup> and others will provide important context for the actions of Death Grips in the post-Internet era.

The next chapter will use a framework of “democratization” provided by David Hesmondhalgh in his study of the use of technology by independent record labels in the UK.<sup>13</sup> This framework was also used in Patryk Galuszka's research of “netlabels”<sup>14</sup> and how digital technology and the Internet can be understood through Hesmondhalgh's framework. Both of these frameworks provide an understanding of how Death Grips were able to use the technology available to them to disobey the terms of their contract with Epic as well as the group's relationship to their intellectual property. Also in this chapter, Habermas' “colonization thesis” as it is understood by Patrick Burkart<sup>15</sup> to describe online activism is used to further understand Death Grips' actions in broader political contexts surrounding copyright and ownership of intellectual property in the post-Internet era. Finally, the work of Kostas Krasas is used to frame music piracy and peer-to-peer sharing of music as a political action which stands in defiance of major label control over the recording industry.<sup>16</sup>

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11 Fabian Holt, "The Economy of Live Music in the Digital Age." *European Journal of Cultural Studies*, (2010).

12 Leslie Meier "Promotional Ubiquitous Musics: New Identities and Emerging Markets in the Digitalizing Music Industry" (2013). *Electronic Thesis and Dissertation Repository*. Paper 1096.

13 David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3): 255-74.

14 Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7),

15 Burkart, Patrick. *Music and Cyberliberties*. Middletown, Conn.: Wesleyan University Press, 2010, 19.

16 Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1).

In the fourth chapter, I will be looking at Death Grips' actions and disobedience as employees. First using the framework provided by Jonathan Neufeld, who outlines parallels between “civil disobedience” and what he calls “aesthetic disobedience,”<sup>17</sup> this framework is relevant to Death Grips' use of a photo of a penis as their album cover as well as the role of their audience in disobeying. Neufeld's “aesthetic disobedience” will lead into frameworks of employment and contractual labour provided by Carole Pateman. Pateman's writings on “Contractarianism” and “property in the person”<sup>18</sup> are important for understanding Death Grips' position as employees. These frameworks were also expanded and applied to the context of recording contracts by Matt Stahl. Stahl also provides research on and analysis of the legal contexts of the recording contracts as well as the political economy of the recording industry which help to frame the release of *No Love Deep Web* in legal and labour contexts.<sup>19</sup>

These frameworks will be used to understand the following research questions: How does the illicit release of *No Love Deep Web* exemplify or contradict recording industry norms? In what ways does the release of *No Love Deep Web* align with current online political movements regarding intellectual property? What kind of disobedience is Death Grips engaging in? And what does the release of *No Love Deep Web* tell us about Death Grips within their role as employees of Epic Records? These questions will serve

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<sup>17</sup> Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 115.

<sup>18</sup> Carole Pateman, "Self-Ownership and Property in the Person: Democratization and a Tale of Two Concepts." *Journal of Political Philosophy*: 20-53.

<sup>19</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. Durham, NC: Duke University Press, 2013.

as a means of better understanding the current state of the music industry within the digital age.

## 1.2 Thesis Outline

This thesis will be organized into three substantial chapters. The first of these chapters will seek to understand the unauthorized release of *No Love Deep Web* in a historical context, specifically in regard to its place in the digital era. As mentioned above, Death Grips could not have taken the actions they did without the Internet. This chapter is focused on the current state of the recording industry and the music industries at large. Death Grips and their disobedience straddle a line between the norms of major labels and independent labels in the pre-Internet era and norms of major label and independent labels in the post-Internet era.

Chapter three will focus on Death Grips' relationship to their intellectual property. I argue that their choice to self-release *No Love Deep Web* under a Creative Commons license is an act of “decolonizing” their property from Epic. The issue of “ownership” in this case provides a unique opportunity to analyze how copyright, ownership, and authorship are conceptualized both legally and by the public. Although Death Grips were technically the authors of their music, Epic had been assigned their music; by using Creative Commons licensing, Death Grips made an attempt to seize control over the outcome of their labour, an attempt which I will further explore in the third chapter.

Chapter four will examine the actions of the band through the lens of labour and contract law. I will use this chapter to focus on the actions of Death Grips as it relates to their labour as employees of Epic Records. This will frame their actions from both an aesthetic approach, noting how they are similar to and different from artists in the past

who have engaged in rebellious acts, as well as how their rebellion functions as a form of worker revolt. To understand their actions further I will use frameworks of contract theory and political-economic approaches to labour in the recording industries.

### 1.3 Literature Review

While the actions of Death Grips have gained a significant amount of press coverage, there is a lack of research that directly engages with the band and the release of *No Love Deep Web*. There are a number of other critical approaches to take to understand how Death Grips was able to release *No Love Deep Web* without authorization, without suffering the corresponding penalties, and whether their case is unique or if it is possible for other artists to take similar actions in the digital media age. The literature I plan to work with will help me illuminate this act and its implications along a number of key lines: First, by looking at Death Grips through the lens of music and cultural labour and as an anomaly within the music and cultural industries. Secondly, from the perspective of intellectual property and copyright, specifically, how modern technology and digital media were used to spread, copy, and avoid the control of Epic Records over Death Grips' master recordings. Thirdly, as a contractual issue looking at Death Grips and their role as employees within the recording industry.

Matt Stahl's book *Unfree Masters* investigates the nature of recording contracts in California and examines the rhetoric surrounding the contracts not only as an end goal and achievement for many artists, but also as a labour contract. Stahl explores the history of the recording industry in the United States, artists' experiences of alienation within recording contracts, and several important legal battles over labour issues faced by recording artists. This book serves as an important resource for understanding how artists

get caught in contracts which are extremely limiting and alienating, especially in terms of “basic rights to control their labour.”<sup>20</sup> Keith Negus's *Producing Pop* is also focused on the recording industry and recording contracts. Negus approaches recording contracts, artists and repertoire (A&R), and new artist development from the perspective of the industry and those working in labels. This has provided a valuable overview of recording contracts from the industry side. Mark Eliot's *Rockonomics* has also provided an overview of the music industry, specifically the economics of music. *Rockonomics* examines various contracts, and lawsuits within the music industry from an economics perspective. Also, writings such as David Hesmondhalgh and Sarah Baker's *Cultural Labour* have served as a way to understand labour in the cultural industries as well as providing both theoretical and empirical frameworks to outline issues of worker alienation in said industries. These works provide a base for understanding issues of labour within the recording industry and help us to understand how Death Grips both conforms to and departs from these norms.

Much of the above writing is done with the assumption that artists and workers will abide by the terms described in their contracts. Very little work exists on artists who challenge the terms of their contracts. Stan Soocher's *They Fought the Law* stands out, as he discusses cases of artists going to court over various disputes, often over issues with their label. However, even in these instances, artists are following the letter of the law by going through the legal system and hiring legal professionals to work out their labour issues. This differs from the actions of Death Grips, who simply chose to stop following the terms of their contract despite the potential legal, economic, and social consequences.

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<sup>20</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 140.



Other works about civil and social disobedience such as *Pranksters* by Kembrew McLeod provided a look at various types of rebellion and disobedience. Although aspects of *Pranksters* focus on acts of disobedience done as jokes or in a humorous way, there are others that are more straightforward acts of disobedience, like hacking and phone “phreaking.” The book also includes acts of disobedience in the music industry such as The KLF (Kopyright Liberation Front) who, similar to Death Grips, had a fairly successful career in the music industry despite engaging in acts of rebellion, irony, and criminal behaviour. Both bands engaged in acts that questioned common conceptions of intellectual property and the ownership of music. For the KLF, it was in their very name as well as a primary part of their music which dealt heavily with sampling and distorting copyrighted music to create their own messages and music. One of their most well known controversies was the burning of £1,000,000 for a film called “*K Foundation Burn a Million Quid.*” They also fired a machine gun loaded with blanks at the audience of the 1992 BRIT awards. Other books on pranking and the KLF include *The KLF* by John Higgs, and *Pranks!* by V. Vale and Andrea Juno; both provide valuable insight on acts of disobedience. Although Death Grips claimed that the leak of *No Love Deep Web* was a result of dissatisfaction with their label,<sup>21</sup> the acts of the band being framed as a publicity or marketing stunt by Epic put their actions in line with various pranksters who utilize media to question and challenge *status quos*. Whether or not Death Grips intended to get the media attention they received, the publicized nature of their tumultuous relationship with Epic allowed for audiences and music fans to ask questions about the nature of a recording contract.

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21 Jenn Pelly, “Death Grips.” (*Pitchfork*. December 4, 2012) Accessed June 20, 2015.

The other major issue in the release of *No Love Deep Web* that I will address is one of ownership, authorship, and copyright. Lawrence Lessig's book *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* addresses the role of the Internet in selling and controlling intellectual property. In *Free Culture*, Lessig takes special interest in ambiguous cases of intellectual property theft and copyright violation. Lessig's approaches to the possibilities of the Internet are especially relevant to Death Grips, who are using it as a tool to reclaim control over their intellectual property and have previously used it to allow their intellectual property to spread and be freely shared.

Again, the work of Kembrew McLeod has provided relevant research; his book *Owning Culture: Authorship, Ownership, and Intellectual Property Law* analyzes the expanding array of things which can be controlled by intellectual copyrights. As well, his book *Freedom of Expression* deals with resistance to overbearing copyright law and how major corporations are able to employ intellectual copyright law as a weapon to control artists and creative workers. McLeod's writings serve as a valuable resource to understand Death Grips' use of copyright as a tool. When the band first leaked the record, they released it under Creative Commons licensing.<sup>22</sup> This decision, as well as the band's decision to release isolated instrumental and vocal tracks from many of their previous releases, could be understood as appropriating intellectual property as a means of protest against the terms of their recording contract.

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<sup>22</sup> Gwendolyne "Death Grips stick their cock in the eye of sony music, release their new album for free, let anyone make money with it, then change their mind about it." (*Amour and Discipline*. November 1, 2012) Accessed June 20,2015.

The above mentioned texts, although focused on copyright, also share an interest in how the Internet, social media, and increased digitization of media are affecting the cultural industries. The actions of Death Grips are only possible in the Internet age; even 15 years ago, the mass unauthorized distribution of *No Love Deep Web* would not have been possible. Patrick Burkart's *Music and Cyberliberties* focuses on alternative and radical media activists, culture jammers, hackers, net-labels, and critical legal scholars, all of whom are engaged with the music industries' move into e-commerce and digital media. *Music and Cyberliberties* examines the effect of digitalization on copyright protection of music files and developing commercial alternatives to doing business with major labels,<sup>23</sup> all of which are directly relevant to the case of Death Grips. Burkart's other work with Tom McCourt, *Digital Music Wars: Control and Ownership of the Celestial Jukebox*, argues for a world with looser copyright controls, similar to Lessig's *Free Culture*; however, it is focused on digital music. *Digital Music Wars* is useful because Burkart and McCourt provide an account of how the Internet is changing the music industry. These books, which deal with P2P file sharing and the role of the Internet in the music industry, relate directly to the release of *No Love Deep Web*, which would not have been possible without such technologies.

The above texts all help to illuminate the circumstances surrounding the unauthorized release of *No Love Deep Web*. These texts have provided insight and help frame the album's release through a lens of music and cultural labour as well as a contractual issue, and subsequently as an issue over intellectual property and creative control. Finally, I will analyse the album's release from the perspective of intellectual

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<sup>23</sup> Patrick Burkart, *Music and Cyberliberties*. (Middletown, Conn.: Wesleyan University Press, 2010), 12.

property and copyright, with specific attention to how modern technology and digital media were used to spread, copy, and avoid the control of Epic Records over Death Grips' master recordings.

In the following chapter I will provide a deeper contextual understanding of Death Grips and how their actions exemplify and contradict industry norms. As I discuss below, the band straddles the lines between independent label norms and major label norms in the pre-digital era and the post-digital era.

## Chapter 2

### 2 Death Grips and the Digital Music Industries

Death Grips participated in and utilized the structures and resources of the major label system at a time of rapid change in the music industry. Their actions, both within and outside of the limits of the label and its permissions, were unusual. The changing structure of the major label system resulted in unique opportunities for Death Grips to navigate in and out of those structures. Although the actions of Death Grips were certainly unusual, their actions as a band at times exemplified established norms of recording industry relations, while at other times contradicting those norms.

In this chapter I will be looking at various events in the band's career leading up to and following the unauthorized release of their album *No Love Deep Web* and contextualizing these events within the current state of the music industries. While on the surface, much of the band's behavior and circumstances would seem to contradict typical recording industry relations, current research and commentary by some scholars would suggest that the actions taken by both the band and label are more in line with new industry standards than initial reports from onlookers made it seem.

#### 2.1 A Brief Overview of the Music Industries

It is important to note that the events surrounding the release of *No Love Deep Web* came at a very tumultuous period in the music industries (I use the plural term "music industries" in agreement with arguments made by Williamson and Cloonan in their article "Rethinking the Music Industry"<sup>1</sup> which state that the singular "music

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<sup>1</sup> John Williamson, and Martin Cloonan, "Rethinking the Music Industry," *Popular Music* 26 (2007): 305-22.

industry” inaccurately describes a complex set of music-related industries including publishing, recording, live, etc.). As scholars such as Leslie Meier point out, “The recording industry’s core bases of profitability and power – sales of physical album ‘units’ and top-down dominance over radio and music video promotion – were radically destabilized by the proliferation of unauthorized downloading, on-demand streaming media, and the growth of a consumer (rather than professional) market for digital recording technologies.”<sup>2</sup> This destabilization is resulting in a significant restructuring in how the music industry conducts business and extracts profits from its artists. Notably, labels are no longer able to rely on the profits of a small number of blockbuster albums to reduce the risk of signing and developing a large number of smaller artists, who may not be profitable at all. The “decline of the blockbuster model” as well as the power and profitability of the physical music commodity is responsible for creating a notion among industry observers that the major record labels “are out of date dinosaurs destined for failure,”<sup>3</sup> especially in the face of increased digitization which no longer supports the physical commodity which the record industry was built and run on for decades.

With this decline of traditional modes of profit for the recording industry and the increased access to resources for DIY artists, it may seem natural for a band such as Death Grips to try to avoid signing with a major label. Musicians now have unprecedented access to resources to not only record their music without the need for a professional studio, but to also distribute and market their music to millions of people around the world through the Internet. This makes it very tempting for artists to avoid

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<sup>2</sup> Leslie Meier "Promotional Ubiquitous Musics: New Identities and Emerging Markets in the Digitalizing Music Industry" (2013). *Electronic Thesis and Dissertation Repository*. Paper 1096, 104.

<sup>3</sup> *Ibid.*, 105.

traditional career paths that would have, at one time, involved signing with a major label. Instead, artists are able to maintain more control and ownership over their labour, marketing, intellectual property, etc. by recording, promoting, publishing and marketing themselves and their music on their own. Artists such as Amanda Palmer have raised millions of dollars through crowd-funding websites like Kickstarter and Patreon.<sup>4</sup> Other major recording artists are encouraging young artists not to sign with major labels. Prince, for example, has stated that record contracts are like slavery.<sup>5</sup> David Byrne, singer of the Talking Heads, is also critical of how major labels are handling royalty rates in the growing music streaming industry.<sup>6</sup> However, both of these artists have made their living and established their careers within the major label system at a time when it was still structured on the profits made from physical album sales.

An example that falls between the arguments made by artists like Prince and Byrne, and artists such as Palmer who are trying new methods of extracting profits, is Iggy Pop. In a recent lecture for the BBC as part of their tribute to John Peel, Pop spoke about “free music in a capitalist society.”<sup>7</sup> Within this lecture Pop discussed at length his history within the recording industry, discussing how he and his band, the Stooges, had made money in the past by playing live, selling albums and receiving royalties. Most significantly, perhaps, Pop discussed his predictions for the future of the industry, how

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4 Marc Schnider, "Amanda Palmer Fans Pledge More Than \$14,000 Per 'Thing' She Creates." (*Billboard* March 4, 2015). Accessed September 25, 2015.

5 Daniel Kreps, “Prince Warns Young Artists: Record Contracts Are 'Slavery'” (*Rolling Stone* August 9, 2015). Accessed September 23, 2015.

6 Daniel Kreps, “David Byrne Pens Op-Ed Asking for Streaming Transparency.” (*Rolling Stone* August 2, 2015). Accessed September 23, 2015

7 Iggy Pop, “BBC Music John Peel Lecture - Iggy Pop's Keynote Speech Transcript.” (*BBC Radio 6* August 30, 2015). Accessed September 23, 2015.

music is expected to be free, and how he currently makes money as a musician (or artist).

He articulates the current issue with the music industries in this way:

Now, thanks to digital advances, we have a very large industry, which is laughably maybe almost entirely pirate so nobody can collect [income]. Well, it was to be expected. Everybody made a lot of money reselling all of recorded musical history in CD form back in the 90s, but now the cat is out of the bag and the new electronic devices which estrange people from their morals also make it easier to steal music than to pay for it. So there's gonna [sic] be a correction.<sup>8</sup>

In other words, the digitization of the music commodity has made it more difficult for labels and artists to make profits from music sales, forcing them to make “corrections” as to how they extract profit from their music. Although he does not specifically articulate what that “correction” is in his lecture, Pop is recognizing a change in the industry that scholars are also noting. He further mentions, “I too am concerned about losing... royalties, now that they've finally arrived, in the maze of the Internet. But I'm also diversifying my income, because a stream will dry up. I'm not here to complain about that, I'm here to survive it.”<sup>9</sup> Although many artists and commentators are suggesting and predicting the end of the major label system, Iggy Pop instead is suggesting that a new mode of profit is emerging within the music industries, which used to rely so strongly on

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<sup>8</sup> Iggy Pop, “BBC Music John Peel Lecture - Iggy Pop's Keynote Speech Transcript.” (*BBC Radio 6* August 30, 2015). Accessed September 23, 2015.

<sup>9</sup> Ibid.



the recording industry. This is what he is suggesting when he refers to a “correction” and what he is attempting to “survive” by “diversifying [his] income.”<sup>10</sup>

As Meier points out, the focus on this decentralization of the commodity form of music has “rendered nearly invisible the decisive ways that major record companies and music publishers have successfully responded to the crisis in popular music’s commodity form.”<sup>11</sup> According to Meier and others, one of the most significant ways in which companies have been able to extract further profits from artists and musicians is by instituting “360 deals” (also known as “multiple rights deals”) which replace the standard recording contracts that were once based on physical sales. 360 deals, as explained by Stahl and Meier:

encircle the contracted artist so that non-record-related activities and revenues formerly beyond the reach of the recording contract become subject to “participation” by the contracting company. These activities and revenues chiefly include live performance and music publishing and increasingly incorporate the licensing of names, images, and logos (and the merchandizing of branded items), as well as other, typically new-media-enabled opportunities for monetization of the artist persona.<sup>12</sup>

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10 Iggy Pop, “BBC Music John Peel Lecture - Iggy Pop's Keynote Speech Transcript.” (*BBC Radio 6* August 30, 2015). Accessed September 23, 2015.

11 Leslie Meier “Promotional Ubiquitous Musics: New Identities and Emerging Markets in the Digitalizing Music Industry” (2013). *Electronic Thesis and Dissertation Repository*. Paper 1096, 104.

12 Matt Stahl, and Leslie M. Meier, “The Firm Foundation of Organizational Flexibility: The 360 Contract in the Digitalizing Music Industry. *Canadian Journal of Communication* 37 (2012): 442.

This quote describes the restructuring of the music industries towards a re-conception of recording artists as “artist-brands”<sup>13</sup> and away from the focus on the commodity form and album sales. This re-conception and diversifying of methods of making profit off artists through 360 deals is the industries' “correction” which Iggy Pop describes. The shifting emphasis away from the physical record commodity can also shed light on Epic's seemingly lenient reaction to the unauthorized release of *No Love Deep Web*. To many onlookers, it may come as a shock that the main consequence of the album's illicit release was the band simply being dropped from the label. Why was no legal action pursued against the band for breaching the terms of their contract (terms regarding Epic's exclusive rights to control Death Grips recordings, I will be exploring these contractual issues more in the fourth chapter) and releasing property of Epic Records without permission? The answer to this question lies in the research mentioned above. Epic Records (and other major record companies) are moving away from the recorded commodity as it is no longer the primary means of capitalizing off of artists' labour. The album *No Love Deep Web* was no doubt an anticipated source of revenue for Epic Records, but it was only one source of revenue and, according to many, not even the largest stream.<sup>14</sup>

In several literal and symbolic senses, Death Grips are representative of the tensions between the changing music industries and artists. Their history as a band demonstrates a level of DIY success that many artists are attempting to achieve as well as

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13 Matt Stahl, and Leslie M. Meier, “The Firm Foundation of Organizational Flexibility: The 360 Contract in the Digitalizing Music Industry.” *Canadian Journal of Communication* 37 (2012): 452.

14 Fabian Holt, "The Economy of Live Music in the Digital Age." *European Journal of Cultural Studies*, (2010).

a level of awareness of the remaining strength, influence, and power of major labels, and how it is possible for emerging artists to benefit from the resources of a major label.

## 2.2 Death Grips as Participants in the Music Industries

Looking back at the history of Death Grips, it can be difficult to understand why the band might have signed to Epic. Listening to their music, their lyrics suggest they are anti-corporate, anti-consumerism, and anti-capitalist in general. (The very first track on their debut, *Exmilitary*, opens with a recording of Charles Manson describing the recording studio, Vox Studio, as being a jail and expressing anti-corporate sentiments, especially toward the recording industry.<sup>15</sup>) They have had a tendency to avoid publicity and the public eye, and generally seem uninterested in wealth, fame, or any sort of public acceptance. In an interview with UK-based music newspaper, *The Stool Pigeon*, Zach Hill states that “money is a joke to me. I’m not a person that’s ruled by it. I actually look at it as a really funny thing. There have been times in my life where I’ve had none of it and lived in absolute poverty. So I’m not scared of that. I could go back to having zero and it does not frighten me. It does not rule my world. Therefore, it’s never going to rule my art or my private life.”<sup>16</sup> This statement could be understood as rhetoric or a performance of a deviant position, but even if it is, it still says a lot about how he wants to be perceived and the importance of the values he articulates to his self-presentation. After they signed to Epic, the band expressed their reasoning behind signing with a major label. In an interview with the online magazine *atractivoquenobello*, Zach Hill explains the band's motivations for working for Epic Records:

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<sup>15</sup> Death Grips. “Beware,” *Exmilitary*. MP3, Third Worlds. 2011.

<sup>16</sup> Steph Kretowicz, "Interview: Death Grips." (*The Stool Pigeon*. April 23, 2012). Accessed October 10, 2015.

[We signed to a major label] To expand on [our] ideas. Getting resources to broaden the vision. As far as Death Grips is concerned, it's about perceiving it as its own entity. We want that to grow, musically-speaking and through the content, as large as possible but not with ourselves attached to it as individuals. It's very simple. We need to maximize our art by having resources for straight-up ideas that cost money. That provides us with resources to further our search within our art. That's basically what it comes down to.

There's that and also the expanding of awareness of our group. We want this music to go as far as it could possibly go. The way that exactly we want it to go. That's happening as well because we got a very excellent record deal where there's no one in charge of this thing, except the three of us. That's for certain.<sup>17</sup>

For Death Grips, this quote shows their awareness of the power, in the form of capital, that labels still maintain, as well as the label's ability to distribute and market their music to bigger audiences. Even though Death Grips established a great deal of popularity through DIY methods, they are not ignorant of the continuing influence of the major labels. For Epic, it would be beneficial to have a band in their employ who are aware of their status as a brand, to have a band who is able to recognize the idea of a band as "its own entity," one that might not have the members "attached to it as individuals." Rather than having a group of musicians whose music may strive for certain types of authenticity and music that is representative of themselves as people, Epic signed a group that is not

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<sup>17</sup> Jean Kay, "An Interview with Death Grips" (*aqnb* April 23, 2015) Accessed October 20, 2015.

only aware of their band as a kind of “brand.” This type of approach to a group is arguably much more malleable than one rooted in authentic expression, which is common in many popular forms of music. This malleable brand could prove very beneficial to an artist-brand approach, as they could theoretically change their brand to match with other brands allowing for different partnerships and modes of profits.

Reviewing the band's history, it would seem early on that they embody the new trends of musicians abandoning the major-label system in favor of a more DIY approach. The recording, release, and promotion and distribution of their first mixtape *Exmilitary* was done through their own independent label Third World Records without the aid of a major label. In the contemporary digital era, a “mixtape” normally refers to a collection of hip-hop songs released for free. The mixtape was released for free download through the band's website, [thirdworlds.net](http://thirdworlds.net), as well as briefly on iTunes (although it was eventually removed but as of this writing remains available to download free of cost from Death Grips' website). The band also sold vinyl and cassette copies of the album. A few months after the album's release, the band also released all the isolated instrumental and vocal tracks for the mixtape under the name *Black Google* and encouraged fans to

download, sample, and remix the tracks. These tracks were also made available for free on the band's website.

Giving their music and art away for free online demonstrates Death Grips' willingness to engage with the newer approaches to “maximize their art” in the music industries. Although they sold physical copies of their album, it is clear that the band would make more profit in other realms like live music and licensing their music to be in TV or film. As Fabian Holt describes in his article “The Economy of Live Music in the Digital Age”:

In the era of new media, conventional forms of content have lost economic value and the distribution channels and revenue streams have diversified. New business models are being tested in a hybrid media economy that so far relies greatly on revenues from hardware and telecommunication services... The sound recording is transformed from a physical object into digital content with a more virtual existence, as information that can be edited, shared and searched in new ways. With live music, on the other hand, the market value has gone up and the consumer pays directly for the music.<sup>18</sup>

Although in their interviews it would seem as though Death Grips are not deeply concerned with making profit or economic gain from their music, their actions in releasing *Exmilitary* and *Black Google* mirror the actions of major labels who are diversifying their income streams by requiring artists to sign 360 deals and removing the emphasis on selling physical (or digital) copies of a recording. It would seem as though

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<sup>18</sup> Fabian Holt, "The Economy of Live Music in the Digital Age." *European Journal of Cultural Studies*, (2010), 246.

there is recognition within the band that “conventional forms of content have lost economic value.”<sup>19</sup>

The release of *Exmilitary* further makes clear the ways in which Death Grips exemplify the new structures and patterns in industry relations. Before the infrastructure of the Internet was as widely accessible and normalized as it is today, a band could make a mixtape – a DIY release showcasing a musician’s abilities – to send around to potential labels and investors. While artists in the past were bound to record to a cassette, CD, or to perform live, now groups can upload their mixtapes online and distribute them further, faster, and cheaper than before. In those days, a band’s mixtape, an actual cassette, would likely never be heard by an audience at large, or maybe only picked up by dedicated fans who collect rarities. Even if the mixtape were made public, it would likely never be as well regarded as an album, and would instead be viewed more as a collector’s item targeted to dedicated fans and collectors. Now, mixtapes and demo-tapes can become just as notable as official releases. Especially in the world of hip-hop, mixtapes are becoming just as important as the album format. Artists like Drake, Chance the Rapper, Joey Bada\$ \$ and others are getting more acclaim for mixtapes than official album releases, although it is worth noting, in fact, that the difference between a “mixtape” and an “album” is blurring. Artists are now selling their “mixtapes” as well as putting them out through major labels, a prominent example being Drake’s mixtape *If You’re Reading This It’s Too Late*, which was released for purchase through iTunes and became the first release in 2015 to sell one million copies.<sup>20</sup> Many observers were unsure whether *If You’re Reading*

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<sup>19</sup> Fabian Holt, "The Economy of Live Music in the Digital Age." *European Journal of Cultural Studies*, (2010), 246.

<sup>20</sup> Keith Caulfield, “Drake’s ‘If You’re Reading This’ Becomes First Million-Selling Album Released in 2015” (*Billboard* August 10, 2015) Accessed October 20, 2015.

*This* was an album or a mixtape, prompting articles such as “Is *If You’re Reading This An Album Or Mixtape?* Drake Answers The Question” on MTV’s website. According to Drake himself the release was a mixtape,<sup>21</sup> although there is speculation it was released unexpectedly to get out of his recording contract.<sup>22</sup> However, even if that was the case, Drake still released the mixtape through his label, Cash Money Records, so it was not in violation of his contract like Death Grips. In this context, *Exmilitary* appears typical of new norms in the music industries. Their song “Guillotine” from the tape remains one of their most popular songs and its music video currently has over three million views on YouTube.<sup>23</sup>

As mentioned above, there are some peculiarities to how Death Grips approached their recording contract. While there are plenty of musicians and artists who create music for the pleasure of creating art and being creative, it can generally be said that a musician willing to sign to a label has some form of interest in making music a career choice. Although they are not always viewed as such, recording contracts are employment contracts. Understanding the events between Death Grips and Epic Records as an employment relation will be covered in more detail in chapter four.

After Death Grips initially signed to Epic, their career became much more exemplary of pre-digital industry norms. They planned to release two albums with Epic, planned a tour, went through the regular press cycle for these releases, and so on. By even

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21 Rob Markman, “Is *If You’re Reading This An Album Or Mixtape?* Drake Answers The Question.” (*MTV* February 14, 2015) Accessed October 20, 2015

22 Tony Manfred, “Here’s the Theory that the new Drake Album is Actually a Brilliant Maneuver to get out of his Record Deal.” (*Business Insider* February 18, 2015) Accessed October 20, 2015.

23 Death Grips, “Death Grips - Guillotine (It Goes Yah).” (YouTube. April 26, 2011.) Accessed October 10, 2015.



more traditional standards of the pre-Internet recording industry, Death Grips released three singles from their major-label debut, all of which were accompanied by videos. While aspects of their approach to album release and promotion were very atypical, they seemed to transform into a more typical band once on a label's roster.

After officially signing to Epic, Death Grips began promoting their first major-label album, *The Money Store*. When the band announced *The Money Store* they simultaneously announced a second album which would be released later that year called *No Love*, which would later become *No Love Deep Web*.<sup>24</sup> Two albums in one year is not normal for a major label artist, although there are precedents for it (Bob Dylan, The Beatles, Neil Young, etc.). Shortly after the announcement that they would release two albums in the same year, Death Grips did something even more unusual and announced that early promotional material such as songs and music videos for *The Money Store* would be made available for free through BitTorrent, a torrenting service which is commonly used as a tool for pirating music and other media. This agreement with BitTorrent was done with permission from Epic Records. From Death Grips' perspective, this comes from a belief that their music should be available online for free. The band has stated in multiple interviews that digital media should be available for free (like their first release *Exmilitary*). In an interview with *Pitchfork* Zach Hill stated:

We believe information should be free. In the physical world, with an object or item, it's understandable why you pay for that. But charging people for something that's digital, that's in the ether – it makes sense but it's strange.

We have records for sale, but it's hard for us to wrap our heads around not

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<sup>24</sup> Carrie Battan, "Death Grips Sign to Epic, Ready Two 2012 Albums" (*Pitchfork* February 27, 2012) Accessed October 20, 2015.

also providing the option of getting it for free digitally, like a weird spirit out in the machine.<sup>25</sup>

This statement is significant as the band is acknowledging how the digitization of the commodity form is directly affecting the perceived value of their art. For them, the lack of a physical medium appears to reduce the economic value of their art as a product. For a band who has stated multiple times, including again later in that interview, that money is “a joke,”<sup>26</sup> it is easier for them to be unconcerned with selling their music. For a label like Epic Records, who have shareholders to answer to, there is still a concern about how to make profit from the music. Epic, however, is a part of the changing music industries as briefly outlined above. They are aware and concerned with the free distribution of digital media and are involved in shifting their business model toward 360-deals and other ways of gathering profit from artists besides the old physical sales-based blockbuster model. In this new context, the BitTorrent deal, which gave away nearly the entire album and several music videos for free, begins to make more sense.

Since Epic is no longer relying as heavily on album sales, they can afford to give material away for free because in the long run it will help promote other streams of income such as merchandise, live shows, etc. According to *Business Wire* BitTorrent had 150 million clients at the time of the release of the promotional package.<sup>27</sup> While the label and band did not give the entire album away for free so that they could continue to

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25 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

26 Ibid.

27 “Death Grips Premieres Exclusive New Video Bundle on BitTorrent” (*Business Wire* April 13, 2012) Accessed September 20, 2015.

promote pre-sales for the album,<sup>28</sup> it still was an atypical partnership for a major label to do business with a tech platform that was its “enemy”<sup>29</sup> in the sense that platforms like BitTorrent allow for the illegal sharing of their property. It may seem at first glance that this is nothing more than a typical promotional routine done through a new platform. Labels have released singles through the radio and music videos on television without requiring viewers to pay for them for decades. Even online, major labels have released songs and videos for streaming on free services such as YouTube, as well as various online radio platforms. Where *The Money Store* torrent bundle differs is that it does not require the consumer to view advertisements as they would have to through radio, television, or Youtube, nor do they need to pay a subscription fee like they would for a streaming service. The money from advertisers or subscriptions are paid back to the labels in return for the ability to license the music on the website. This is a loss of a significant source of revenue for modern labels who are making major profits on advertisements on YouTube, the way that they used to on radio and television.

By approaching this deal from the perspective of the artist-brand concept, this deal further clarifies itself because Death Grips represents attitudes not commonly represented in major-label artists and art. Death Grips as a group strongly believe in free digital media as shown above, but they are also strongly interested in fostering new types of relationships with their fans. As Zach Hill explains:

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28 “Death Grips Premieres Exclusive New Video Bundle on BitTorrent” (*Business Wire* April 13, 2012) Accessed September 20, 2015.

29 Brian E. Gieban, “Death Grips: 'There is a lot of Destruction and Recycling in Our Music'” (*The Skinny* May 2, 2012). Accessed October 20, 2015.

The number one thing is we don't look at people who are connected with our music, or who are enjoying it, as consumers, and we're not businessmen – it's not like that. There's a relationship, and that should always be the front line of what we're doing, but it's a relationship between two groups of people, it's not a transaction. When you put something out, you're telling people to pay attention, to connect with it. So asking for something in return – and I know this is kind of a more utopian idea – it seems like that shouldn't be the focus.<sup>30</sup>

While it could be that Hill was making these claims as part of a possible marketing strategy, the actions of the group would suggest that they are willing to act in a way that reflects this mentality. If Epic are to make profit from the persona of Death Grips, this attitude is something they must consider, even if it is seemingly contradictory to traditional capitalist recording industry relations and structures. If Epic were willing to allow Death Grips to continue giving their music away for free (their BitTorrent deal suggests they were at least willing to experiment in finding a middle ground) they could keep Death Grips in their roster of artists and continue to make profits from them with a multiple-rights deal. An agreement such as this could maintain a “hands-off” approach that could appease both the band and their fans, who likely would not want to have any label interference with how the band creates their art. Fans who may have been initially drawn to Death Grips because of their mentality of changing the artist/fan relation away from a more capitalist producer/consumer dichotomy would then be willing to engage with a major label artist on these new terms. This could create a balance between the

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30 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

label, who might make profits from Death Grips' merchandise, live shows, etc., and the band, as well as their fans who are drawn to Death Grips' more social approach to recording industry relations. It may even be possible that both Death Grips and Epic were aware of this potential profit all along and that Death Grips' "utopian idea" of breaking down the producer/consumer relationship was simply to conceal their intentions to make profits from fans who may be averse to major labels.

While this deal with BitTorrent was an unprecedented and atypical move for the major label, it demonstrates the limits in terms of how far Epic was willing to go along with Death Grips. While the major labels are moving away from physical album sales and trying to cultivate these new methods of profit from artist-brands, they are unable to move in the same direction that a small group of musicians can. In the terms of Stahl and Meier:

In other words, as business environments become increasingly unstable (thanks, for example, to the proliferation of file-sharing or the entry of new players into the field), companies seek enhanced organizational flexibility such that they may experiment with new ways of doing business in order to remain competitive. Yet in the context of destabilization in some areas (e.g., the waning in steady sales of CDs or the erosion of control over certain markets for music or music-related commodities), experimentation appears to require a compensating increase of stability in others, demonstrating an unwillingness to let go of one handhold before securing another.<sup>31</sup>

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31 Matt Stahl, and Leslie M. Meier, "The Firm Foundation of Organizational Flexibility: The 360 Contract in the Digitalizing Music Industry." *Canadian Journal of Communication* 37 (2012): 445.

Epic's willingness to engage in more experimental ways of doing business (making a deal with BitTorrent, signing a group like Death Grips who are not within their typical pop-star focused roster) reached a breaking point when it came to the release of *No Love Deep Web*. The label was not willing to move in the same direction that Death Grips wanted and that conflict resulted in the group and label severing ties. This point of contention between Death Grips and Epic will further be elaborated on within contexts of intellectual property (chapter three) and employee/employer relationships (chapter four).

Another aspect of the *No Love Deep Web* story worth noting is the existence of an “alternate reality game” (ARG) that was created leading up to the release of the album. This “game” was an interactive puzzle formulated like a scavenger hunt online which invited fans to decrypt various hidden messages, search for clues, contact strange email addresses and venture to websites on the “deep web” (parts of the Internet which are not indexed by standard search engines,<sup>32</sup> which inspired the name of the album). Although there has never been any confirmation from the band or the label that it was actually Death Grips behind the ARG, their fascination with the deep web<sup>33</sup> and the unreleased material (such as an unreleased music video and the instrumental and vocal tracks to every song on *The Money Store*) found at the end of each string of clues, lead many to believe that the band was at the very least involved, if they did not orchestrate the entire thing themselves.<sup>34</sup> The ARG also frequently featured the date “October 23rd”, which was assumed by fans to be the initial release date for *No Love Deep Web* (and was only off by

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32 Qinghua Zheng, Zhaohui Wu, Xiaocheng Cheng, Lu Jiang, and Jun Liu. 2013. “Learning to Crawl Deep Web.” *Information Systems* 38 (6): 801.

33 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

34 Miles Bowe, “The Year in Death Grips” (*Stereogum* December 20, 2012) Accessed October 13, 2015.

six days). If we can say with relative certainty that it was Death Grips behind the ARG, it would further demonstrate their fascination with the Internet and modern methods of releasing their music widely. It would align with their non-traditional tactics of advertising, publicity, and aesthetics (which often makes reference to the Internet, digital media, etc.).

The clearest contradiction of typical recording industry relations is in Death Grips' illicit release of *No Love Deep Web*. For an artist to release an album in this way, without permission from their label, is already bizarre for several reasons. Most significant was the band's willingness to act so blatantly in breach of their contract. As mentioned above, in interviews the band demonstrates very little concern for any economic or social consequences for their actions. This case is unique because it would be almost impossible for a band to release an album with this level of distribution before the Internet. Although artists have taken action to remove themselves from record contracts, I can find no evidence of any performer(s) ever having done so by releasing the album themselves (the role of the Internet in facilitating their actions will be explored in greater detail in chapter three). There have been artists who released music independently because the music itself contained illicit, or copyrighted material that a major label would not take part in releasing (examples such as Danger Mouse and Negativland are mentioned in chapters three and four). There have also been artists in the past who have hastily delivered albums to reach the agreed amount of "deliverables" (in the context of recording contracts, "deliverables" normally refers to complete albums

which the label can put into the market). For instance, both Prince<sup>35</sup> and Van Morrison<sup>36</sup> have recorded and released albums of quickly improvised material, demos, and various other low-effort recordings in order to fill contractual obligations. The difference in the cases of Prince and Van Morrison is that both artists were in a position to negotiate for better contracts and had to fulfill contracts they were in to cultivate better deals and test their market worth. Pre-Internet bands who previously may have been in similar situations to Death Grips, sitting on a finished record and waiting for the label to release and promote it, would simply not have had the means to violate their contract in such extraordinary ways (the major factors differentiating these two eras and the possibilities they presented insurgent acts will be explored more fully in chapter three). That is, assuming that a band in that position would be willing to violate the terms of their contract the way Death Grips did. What makes this case even more unusual are the seemingly few consequences that the band suffered as a result of disobeying the terms in their contract. It was well within the power of Epic to hold Death Grips to their contract and simply not count *No Love Deep Web* as fulfilling a deliverable in their contract. This type of disobedience could easily open the band to a lawsuit, not only for violating their recording contract but also for releasing their album, which is property of Epic records.

The fallout from Death Grips violating their agreement with Epic was simply that the band was dropped from the label. While being dropped from your label may seem like a negative consequence, it was part of Death Grips' intentions when releasing *No*

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35 Eamonn Forde "Record breaker: a brief history of Prince's contractual controversies" (*The Guardian* August 10, 2015) Accessed September 25, 2015.

36 Martin Schneider, "The 'Revenge Recordings': How Van Morrison Got out of a Shitty Contract." (*Dangerous Minds*. February 9, 2015). Accessed September 10, 2015.



*Love Deep Web*<sup>37</sup>. Many bands in undesirable contracts would be relieved to be released from their contracts with such ease. The band was officially dropped nearly a month after *No Love Deep Web* was released. At this point, the band was engaged in a tour, by the end of which they we signed on a new label in partnership with their own Third Worlds imprint.<sup>38</sup> This time, the band was on Harvest Records (they remain signed with the label as of 2016) which is a subsidy of Capitol Records. According to a press release announcing this partnership, the band confirmed that they were able to maintain the rights to *No Love Deep Web*.<sup>39</sup> While the rights to the album remained with the band, in instances such as this it is likely that Harvest made a deal with Epic Records to free Death Grips from any remaining obligations, such as providing them with a percentage of the royalties on Death Grips' future releases along with a flat fee to “buy them out” of their contract. This would be done to clear Death Grips of any obligations which they did not fulfill in their original contract with Epic. While it is not certain that this is the case, it is fairly common for an artist when switching labels. One of the most high-profile cases of this type was George Michael, who wished to terminate his contract with Sony and sign to DreamWorks. That particular case was settled in the courts and required DreamWorks to pay Sony \$40 million; Sony received a three percent royalty on Michael’s future releases.<sup>40</sup>

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37 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

38 Andrew Flanagan, “Death Grips Post-Mortem: Better to Slash-and-Burn Out Than Fade Away” (*Billboard* July 18, 2014) Accessed October 10, 2015.

39 Jenn Pelly, “Death Grips Launch New Label Thirdworlds” (*Pitchfork* July 8, 2013) Accessed October 10, 2015.

40 Stan Soocher, *They Fought the Law: Rock Music Goes to Court*. (New York: Schirmer Books; 1999), 62.

Regardless of the details of the switch between Epic and Harvest, the band so rapidly re-signing with a major label after their fallout with Epic seems like yet another odd decision for the band, especially when considering the similar rhetoric used by Harvest when signing them. Piero Giramonti, a general manager at Harvest said of the deal, "They had an experience with their past record deal where they felt like they couldn't operate how they wanted, and we wanted to create an environment where they could do what they want... We don't dictate."<sup>41</sup> This "hands-off" rhetoric is not only a common tactic used by label employees to attract artists, but was very similar to what Epic CEO L.A. Reid promised the band when initially signing them. The band themselves said of Reid shortly after signing with Epic that "He helps us the most by actually granting us total freedom."<sup>42</sup> However, this resigning may have been a means through which the band was again able to maintain control over their property. After the release of *No Love Deep Web* the group incorporated their own label before signing their deal with Harvest. This will be explored more in the coming chapters but it would suggest that the band was able to maintain greater control of their intellectual property after releasing it from Epic's control.

I will be going into more detail in chapters three and four in regards to the significance of the release of Death Grips from their contract with Epic, but for the purposes of this chapter, there are a few aspects worth highlighting and restating. Primarily, while to many onlookers it seemed shocking that Death Grips were able to avoid a lawsuit in the fallout of the unauthorized release of *No Love Deep Web* (*Spin*

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<sup>41</sup> Andrew Flanagan, "Death Grips Post-Mortem: Better to Slash-and-Burn Out Than Fade Away" (*Billboard* July 18, 2014) Accessed October 10, 2015.

<sup>42</sup> Sean Lynch, "Death Grips Aspire To Be The Beatles Of Rap." (*The Source*. March 16, 2012). Accessed October 20, 2015.

refers to the ordeal as an “outrageous story”;<sup>43</sup> the website *Noisey* ran a piece interviewing a lawyer who further expressed the likelihood of legal action<sup>44</sup>), it is yet another aspect of this story which is easily framed within the shift of the recording industry. While the leak of *No Love Deep Web* may have cut into the expected profits of Epic Records, the record industry was already shifting away from reliance on the physical commodity as shown above in their willingness to give away such significant portions of *The Money Store* for free by way of BitTorrent. For Epic Records, it may have been simpler for them to cut ties with the band rather than engaging in what could be a lengthy legal process with the band over lost album sales, which were simply one of many means of profiting off the band. The band also was already in debt to the label in the form of an advance for the album, although the exact amount of that advance has not been released.

The band has stated in interviews that they spent most of their advance on a two-month stay at the Chateau Marmont<sup>45</sup> a luxurious hotel located on Sunset Boulevard in Los Angeles with a history of hosting many celebrities. According to an interview with *Spin*, the hotel costs \$435 per night and the band stayed there for two months before their advance had been spent; this could have cost them approximately \$26,500, plus other living expenses. In describing the band's stay, Zach Hill stated, “We used what was left over from our advance and burned through the fucking thing.”<sup>46</sup>

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43 Christopher Weingarten, "Artist of the Year: Death Grips." (*Spin*. November 20, 2012), 4. Accessed October 10, 2015.

44 *Noisey* Staff, “Ask A Lawyer: Are Death Grips Screwed?” (*Noisey* November 2, 2012), Accessed October 10, 2015.

45 Christopher Weingarten, "Artist of the Year: Death Grips." (*Spin*. November 20, 2012), 4. Accessed October 10, 2015.

46 *Ibid*.

## 2.3 Conclusions

When understanding the place of Death Grips in the current music industry it would be simple to classify a majority of their actions as being contradictory of typical recording industry relations. They released much of their music for free, including the isolated instrumental and vocal tracks of many of their songs. They cancelled a major world tour with almost no notice, and leaked their own album against the will of their record label – a label that is known primarily for signing pop acts. They also negotiated and encouraged their label to make a deal with a torrenting client, which from their interviews may be as a means of maintaining the ability to release their music for free, and ultimately, despite their unorthodox approach to so many aspects of their career, saw a moderate level of success and acclaim. Even with these seemingly radical moves, the actions of Death Grips can be better understood when taking into consideration the move of major labels away from old business models based on the physical commodity form and blockbuster records, and toward newer models which diversify income streams through 360 deals and artist-brand oriented profit models. While their actions in the frame of the old system would be radical and impossible without new recording technology and the Internet, when trying to understand the actions of the band in the digital realm where artists are increasingly able to create, distribute, market, and publish without the aid of a label, the release of *No Love Deep Web* not only seems to exemplify new recording industry relations, but serves as a bridge in understanding how the music industries are changing and adapting to new technology and the consumption habits of listeners.

The events surrounding the release of *No Love Deep Web* and Death Grips' own commentary surrounding the forging and dissolution of their deal with Epic show that the band is willing to engage in radical new ways of creating, distributing, and marketing their music as well as cultivating fan relationships. While a major label like Epic may be taking similar steps to adapt to the changing state of the music industries, Death Grips remained unsatisfied with their unwillingness to move in the same direction as to how to distribute their music, and for what price (or for no cost at all). This dissonance is not only emblematic of the tension between the band and the label, but also of the old industry model and the new one.

## Chapter 3

### 3 Death Grips, Democratization and Intellectual Property

As a tool and as technology, the Internet was an extremely vital part of Death Grips' disobedience. As mentioned in the previous chapter, Death Grips could not have taken the actions they did in releasing the album even fifteen years ago. The album's unauthorized release and the impact of its release would not be nearly as substantial without the Internet. Even aesthetically, the Internet (even more the “deep web”) plays a major role in the album, appearing in the album's name and the title of one of the songs; the band also used the deep web to engage with fans as part of the album's interactive roll out (described in chapter two). As mentioned in the previous chapter, more artists now (including Death Grips) are taking advantage of the Internet as a means of getting publicity, gaining new fans, and spreading their music to a wider audience in ways that were not possible before the Internet. Just as many other hip-hop artists have, Death Grips released their first “tape” online, for free, to an audience potentially in the millions, made possible by widespread Internet access.

Beyond the Internet being an inspiration for the band's art, it becomes very easy to see how essential the Internet is in the release of *No Love Deep Web* if we imagine the process of releasing an album to the same amount of people in the pre-file-sharing era. This is by no means a detailed account of how a vinyl record, cassette, or CD would have been created or distributed, but if we engage in a brief thought experiment of Death Grips releasing *No Love Deep Web* on vinyl we can quickly understand how it would have been near-impossible in the pre-digital age.

For the sake of simplicity, I will imagine they are pressing a vinyl record rather than a CD or cassette tape. To release vinyl copies of *No Love Deep Web*, Death Grips would first have to acquire the master tapes of their album from the recording studio (it should also be noted that much of the recording process and sampling done by Death Grips would have been extremely difficult to do with the technology available even twenty years ago), have those tapes sent to get an acetate and test pressing made of the record, which would then have to be sent to a pressing plant to be pressed. Keep in mind that *No Love Deep Web*, at the time of this writing, has acquired hundreds of thousands of streams on individual tracks from the album.<sup>1</sup> To achieve these numbers in the previous era, they would have had to at least press copies into the hundreds of thousands (assuming that not every stream or download was a unique listener, and that some people may have downloaded on multiple devices or streamed multiple times) to match the distribution they had online. After all of these albums were pressed, they would then have had to ship the albums internationally, as well as market the album internationally. Already, we can see how difficult this process would have been, and we are not even looking into many details of the album-making process such as creating artwork (something that would be particularly difficult considering the graphic nature of the album's cover art) and completing all of these steps without notifying the label. The costs alone would be far too much for the band to cover, and even if they did have that capital available to them, it would be extremely unlikely that they would give the album away for free in this scenario like they did in reality. We also must consider the amount of other people who would need to be involved, including employees at the pressing plants, record stores, distributors, marketing people, etc. Already, we can see how many steps

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<sup>1</sup> Death Grips, *NO LOVE DEEP WEB*. Online Audio. October 1, 2012. *Soundcloud*

would be involved to release the album as a physical commodity compared to its digital release. In the actual release of the album, only the band was involved. On top of that, there have since been other technological developments in recording and communication that have affected the process of creating and marketing albums. Emails can now be sent in seconds, cell-phones allow people to be reached at nearly any time, and photos can be created without film or film processing. In this hypothetical situation many things would have had to be mailed that can now be created and sent nearly instantly in the digital world.

Even this quick glance over what kinds of considerations are needed to release an album in the pre-digital world provides us with an understanding of the profound influence of the Internet, not just on *No Love Deep Web* and Death Grips, but on the music industries as a whole. It is outside the scope of this thesis, but it can be seen in much recent scholarship just how much the recording industry has been affected by digitization and the Internet. (Meier,<sup>2</sup> Holt,<sup>3</sup> and many others have written about digitization in the music industries. Journals such as *First Monday* have dedicated entire issues to the topic.<sup>4</sup>)

One of the most profound effects of digitization is how much easier it is for people to create and distribute music. Patryk Galuszka begins his paper “Netlabels and the Democratization of the Recording Industry” with a similar thought experiment to the

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<sup>2</sup> Leslie Meier "Promotional Ubiquitous Musics: New Identities and Emerging Markets in the Digitalizing Music Industry" (2013). *Electronic Thesis and Dissertation Repository*. Paper 1096.

<sup>3</sup> Fabian Holt, "The Economy of Live Music in the Digital Age." *European Journal of Cultural Studies*, (2010).

<sup>4</sup> Beer, David. "Introduction: Collecting the fragments of transformation" *First Monday*, (4 July 2005)



one imagined above. He asks, at what point in history would it have been possible for a recording artist to release their music without the mediation of a record label?<sup>5</sup> According to him:

Technological progress (e.g., the introduction of cassette tapes and CDs) and the falling prices of the recording equipment and growing numbers of recording studios made self-releasing music affordable for individual artists in the 1970s. This, however, ...has not made wide distribution of self-released records easy or reduced the power of major record companies... Real changes in the concentration of power and resources in the recording market started to become realistic with the advent of the Internet and digitalization.<sup>6</sup>

Galuszka's version of this kind of thought experiment is further argument of the importance of digitization and the Internet. My thought experiment highlighted the importance of these technologies in the case of Death Grips and their specific act of disobedience; Galuszka highlights a more broad understanding of how digitization is increasing the musician's ability to exercise control over their music and how it is distributed. For many observers, the Internet (as well as improvements in recording technology) has made home recording more affordable and accessible; some argue this has resulted in a democratizing effect on the music business.<sup>7</sup> Galuszka utilizes the framework of democratization provided by Hesmondhalgh (which will be described later

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<sup>5</sup> Patryk Galuszka, 2012. "Netlabels and Democratization of the Recording Industry." *First Monday* 17 (7), 1.

<sup>6</sup> Ibid., 2

<sup>7</sup> Ibid., 1.

in this chapter) in his study of post-punk record labels in 1990s UK. Hesmondhalgh's concept of democratization in the recording industry will also provide us with a useful framework in which we can understand Death Grips and their use of technology.

With the increase in popularity of websites such as Soundcloud and Bandcamp, more and more musicians are able to upload and sell their music directly to listeners track by track. It certainly seems like now more than ever, musicians have access to audiences and control over how their music is sold (or not sold; Bandcamp and Soundcloud both give the option for artists to allow their music to be downloaded for free). Death Grips themselves released *No Love Deep Web* on Soundcloud for free download.<sup>8</sup> In Galuszka's view, the Internet enables performers' increased creative control and control over how their music is distributed and sold. In my view, the Internet also allows for disobedience.

Death Grips' use of Soundcloud and other services normally used by independent artists once again demonstrates how the group straddles the boundaries between the major-label and independent worlds. In this chapter, the focus will be on the Internet and how Death Grips and the release of *No Love Deep Web* can be understood through David Hesmondhalgh's concept of democratization in the music industries. The release of the album can also be viewed alongside current cyberliberty movements and Internet-based political movements surrounding “free culture.” However, for the purposes of understanding the actions of Death Grips and the release of *No Love Deep Web* it is important to look at how technology, including pre-Internet technology, can be understood to have increased democratization in the music industries. Throughout this chapter, I will be looking at democratization in the music industries as a result of

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<sup>8</sup> Tom Breihan, “Download Death Grips' *No Love Deep Web*.” (*Stereogum* October 1, 2012). Accessed January 15, 2016.

technology and specifically the Internet, in the release of *No Love Deep Web* and how the album fits into Internet-enabled movements such as various free culture movements.

### 3.1 Pre-Internet Democratization in Indie Labels

What exactly is meant by “democratization” or “democracy” in these contexts? In his article “Post-Punk's Attempt to Democratize the Music Industry: The Success and Failure of Rough Trade,” David Hesmondhalgh describes attempts at democratizing the music industries before the proliferation of the Internet. His study of Rough Trade Records and its operations during the ‘80s provides a useful framework through which to analyze post-Internet democratization and how it might explain aspects of Death Grips' story.

Hesmondhalgh states that although “‘Democracy’ is a term notoriously prone to abuse... a number of ideas closely associated with the term continue to... animate progressive political action: self-determination, collectivism, and participation are among them.”<sup>9</sup> In his account of Rough Trade, the recorded commodity is still bound to a physical object, which requires not only a pressing plant to manufacture but also physical distribution (e.g., trucks and trains) to move the music commodity from the factory to the distributor to the shop and to the customer. While the technology described by Hesmondhalgh varies considerably from the technology used to create and distribute copies of *No Love Deep Web* (in which the recorded commodity has no physical form), his concepts surrounding technology and democratization still apply to the Internet and the digitalized music commodity.

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<sup>9</sup> David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 255.

Fundamental concepts of democratization in the media systems, according to Hesmondhalgh, are notions of “participation and access,” “decentralization of media technologies,” and “collectivism, collaboration and co-operation.”<sup>10</sup> These principles can manifest in many different ways within a record label to increase democratization. Hesmondhalgh emphasizes two methods of increasing democratization, the first of which emphasizes political aspects of record-making or, in other words, the governance of record-making: who gets represented, what types of musicians are recorded and heard, as well as representation within the label's structure. This mode of democratization also places an emphasis on artists being free to make decisions about how the label is structured and run. “Collectivism, collaboration, and co-operation” are central to increasing democratization in this way. Hesmondhalgh stresses that for democratization to increase in governance and representation, patterns of ethnic, gendered, and class participation must be increased. The example he uses is that of British Asian communities who, “in spite of the enormous prestige of music-making in British Asian communities, [are unrepresented] in the mainstream British music industry, [with very few] working either as musicians or on record company staff.”<sup>11</sup> For Hesmondhalgh, the hierarchies that exist in the music-making world need to be challenged and dismantled for democratization to increase. At Rough Trade, increased participation and access in the governance of music-making is seen in how the label structured itself.

Hesmondhalgh explained that in Rough Trade's record contracts the profits from

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<sup>10</sup> David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 256.

<sup>11</sup> Ibid.

each release were split 50/50 between the label and the artist.<sup>12</sup> This is significantly more than a typical record deal which generally sees artist royalty percentages in the single-digits.<sup>13</sup> This permitted artists to exercise a great deal more economic power and self-determination within the label structure than is typical in major labels. Hesmondhalgh stated that this approach was done to be as 'musician centred' as possible.<sup>14</sup> One of the most significant aspects of self-determination artists had with Rough Trade was their lack of recording contracts. "Contracts were avoided on the grounds that the standard contracts were loaded in favour of companies and that if the personal trust between musicians and companies broke down, there was no point in pursuing the relationship anyway. Rough Trade generally favoured record by record deals, which gave artists the freedom to move on to other companies, should they so wish."<sup>15</sup> Contracts will be explored more thoroughly in the next chapter, but Rough Trade's lack of contracts and willingness to allow artists to leave their label is very uncommon, even among independent labels.

Rough Trade, despite its focus on artists, also did a lot to foster a sense of community among all its workers, and that there was a "sense of [collectivism], collaboration, and co-operation"<sup>16</sup> among all the workers at the label. These notions of "collectivism, collaboration, and co-operation" were reflected in the company's decision-making process. There was an "an unparalleled atmosphere of debate and discussion

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<sup>12</sup> David Hesmondhalgh, 1997. "Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 261.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid., 262.

amongst non-musical staff about the records they were distributing.”<sup>17</sup> Hesmondhalgh uses an example of a Sonic Youth release, which resulted in a label-wide meeting to discuss whether the band's artwork was considered to be too sexist for release.<sup>18</sup> This type of meeting may be construed as label-interference or counter to notions of democratization, but, according to Hesmondhalgh, “in a different type of company, musicians may well have interpreted the response by staff as commercial interference with their creative desires. But the band apparently felt sufficiently part of the culture of Rough Trade to debate issues of sexism with company employees.”<sup>19</sup> In other words, the incorporation of all of the label's employees was a tool for challenging social hierarchies, which increased access and participation within the label.

Hesmondhalgh's second mode is that decentralization is key in increasing democratization in music-making. This second requirement concerns participation in making, consuming, and having access to music-making resources. “Participation and access” and “decentralization of media technologies” are fundamental in increasing democratization for listeners, consumers, and artists. In his study of Rough Trade, Hesmondhalgh explains that much of the cultural resources in Britain are centralized in London, making it more difficult for those in the periphery to succeed in the recording industry.<sup>20</sup> This centralization prevents collaboration and participation in Hesmondhalgh's view. Rough Trade and other UK independent labels began as record stores who

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17 David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 268.

18 Ibid.

19 Ibid.

20 Ibid., 256.

eventually moved into the business of making their own records. Ironically, many of these stores got the initial profits to switch business focuses because of the centralization of distribution caused by major labels.<sup>21</sup> When major distributors began raising the prices on small orders of records and focusing on bigger corporate stores, many independent stores began suffering. However, specialty distribution companies such as jukebox suppliers stepped in to fill the void in the market.<sup>22</sup> This allowed Rough Trade to move away from major distributors and the major labels who funded them, and for the public and music fans outside of London to not only have access to the music made by labels like Rough Trade, but also to be involved in independent labels without having to relocate to a larger city. These independent labels outside of London were also able to recruit local musicians. Hesmondhalgh tells the story of Gary Newman being picked up by the label Beggars Banquet because he was a regular customer who would bring in his demo-tapes to be played over the store's loudspeakers.<sup>23</sup> This increases participation and access for those who may not have immediate access to major labels or significant musical resources that tended to be centralized to the bigger cities.

It is through the framework of democratization and its components “access and participation”, “collectivism, collaboration, and co-operation”, and “decentralization of media technologies” that Galuszka frames his study of netlabels, and provides further frameworks through which we can understand Death Grips and the release of *No Love Deep Web*.

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21 David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 258.

22 Ibid.

23 Ibid.

## 3.2 Netlabels and Post-Internet Democratization

Patrick Galuszka has researched what he calls “netlabels”, record labels that operate primarily online. Although netlabels may also “organize live events, run a recording studio and deliver other non-virtual services, their existence and activities are mostly concentrated on the Internet,”<sup>24</sup> marketing and circulating music in a digital form. Netlabels, according to Galuszka increase the fundamental aspects of democratization outlined by Hesmondhalgh. Galuszka focuses on “participation and access,” “collectivism, collaboration, and co-operation” and “the decentralization of media technologies” which increase democratization both politically, in their governance, and in their distribution, consumption, and accessibility by listeners.

Galuszka writes that “Participation and access... are central to understanding the role of netlabels... [when understanding participation and access] it is not netlabels but digitalization technologies and the Internet that made it easy for the new artists to share their music with the public.”<sup>25</sup> In other words, it is not necessarily the specific actions of netlabels that increases participation and access for their fans or consumers; it is the technology and the Internet which allows for increased democratization. For example, with Bandcamp and Soundcloud, websites commonly used by netlabels,<sup>26</sup> an artist experiences an increase in self-determination by choosing how much to sell their music for, when they can release it, and many other variables. With the Internet, even the intermediaries of the label – pressing plants, distributors, and vendors – are all

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<sup>24</sup> Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 8.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid., 7.



transformed or removed. An artist does not need to make nearly as many concessions on when they release their album, the album's content, or even how much the album sells for (if it is sold for any money at all). They have much more self-determination regarding how their music gets distributed. Participation is also increased through decentralization because there is no selection process for distributing music online. Even if an artist decides to distribute their music through a pre-existing website such as Bandcamp, all they would need is digital copies of their music and access to the Internet. The website does not block musicians from uploading their music regardless of recording quality, genre, talent, etc. This further increases participation and access for aspiring musicians as well as consumers who now have access to artists who may have not been heard otherwise. The Internet appears to democratize by removing many of the old regime's requirements for skill, production value, etc. Artists can upload their music to any number of websites online at any skill level and without the need to get recognition from a label who may be looking for certain aesthetic qualities, musical ability, or marketability.

Similarly, "collectivism, collaboration, and co-operation" is increased, as websites like Bandcamp or Soundcloud allow for artists and labels to work together with greater ease and without establishing hierarchies that were much more present in pre-digital labels. As we will see later in this chapter, the Internet allows for new ways for labels to organize and operate. Galuzska highlights two ways in which netlabels increase "collectivism, collaboration, and co-operation." The first is through the use of Creative Commons licensing, which allows artists to freely copy, share, remix, and use each other's music without the barriers imposed by typical copyright law (this will be elaborated on further later in this chapter). The second way, according to Galuzska, is

netlabels' "non-commercial spirit."<sup>27</sup> He elaborates: "Non-profit orientation, combined with a spirit of co-operation and DIY attitude, summarizes the approach of people who are involved in this scene."<sup>28</sup> In other words, Galuszka's interviews with netlabels align with Hesmondhalgh's interviews with employees of labels like Rough Trade which, as we have seen, were more focused on co-operating and making music in "artist-centric" ways instead of profit-centric ways.

"Collectivism, collaboration, and co-operation" are also aided in the decentralization of media technology provided by the Internet. Communication is easier and faster now than it was in the pre-digital age. Artists and label personnel are able to message one another nearly instantaneously through the Internet even if they are geographically far away. They can also send one another music files, allowing for artists who may not even be on the same continent to collaborate and share musical ideas. Decentralization is much more possible because artists do not need to be in the same place. Groups of artists can collaborate online with greater ease and operate in more co-operative ways as well as structure themselves in ways that do not emphasize profit, which allows for ways of collectivism unachievable even by independent labels such as Rough Trade.<sup>29</sup> Long distance collaboration allows for a shared musical culture that can span the globe to anywhere with Internet access. A shared musical culture and collaboration are crucial in Hesmondhalgh's discussion of collectivism and co-operation. Gina Birch of the Rough Trade band The Raincoats said of Rough Trade boss Geoff

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<sup>27</sup> Patryk Galuszka, 2012. "Netlabels and Democratization of the Recording Industry." *First Monday* 17 (7), 11.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

Travis, “Geoff [Travis] always liked his musicians to meet and mingle and have some sort of dialogue.”<sup>30</sup> For many at Rough Trade this sense of musicians meeting was very important to the label. Today, online meeting and communicating becomes much easier and decentralized.

Death Grips runs their own netlabel, Third Worlds Records, which was initially just the band’s website (thirdworlds.net) through which they released all their music before becoming an incorporated label in 2014 after the release of *No Love Deep Web*.<sup>31</sup> As of 2016, the band has released all of their albums (except for their first release on Epic, *The Money Store*), through their netlabel. These releases have either been exclusively through Third Worlds or in conjunction with either Epic or Harvest. Death Grips and The I.L.Y.'s (a group with only one album and whose members include Zach Hill and Andy Morrin of Death Grips) are the only artists on the label, which promotes and distributes all of its music digitally online. Even when Third Worlds was just the band’s website, it was still an example of what Galuszka calls a “netlabel.” He explains, “In general terms netlabels can be described as something in between MP3 blogs focusing on free music and non-profit record labels.”<sup>32</sup> Third Worlds records is an example of this as they started as a website that served only to release the music of Death Grips, and with the exception of Death Grips' latest album (*the powers that b* released in

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30 Gina Birch, *Anomaly* (1989), quoted in David Hesmondhalgh, 1997. “Post-punk’s Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade.” *Popular Music* 16 (3), 262.

31 Jenn Pelly, “Death Grips Launch New Label Thirdworlds” (*Pitchfork* July 8, 2013) Accessed October 10, 2015.

32 Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 7.

partnership with Harvest), all of the label's releases have been made available for free.

Galuszka observes that:

netlabels' main task is to promote and distribute music released under Creative Commons licenses by individual artists who decide to co-operate with [the label]. Usually a netlabel is run by one or two people, although there are cases when these numbers are higher... some net labels concentrate on one music genre, or releasing artists from a local scene, while other have no specialization. In general netlabels emphasize free distribution online, but some of them offer selected tracks as paid downloads.<sup>33</sup>

Third Worlds fits most of these descriptions quite well as it has distributed and promoted Death Grips' music; many of those albums have been through Creative Commons licensing, including *No Love Deep Web*.<sup>34</sup> The label is run by the three members of the band and releases much of the music for free, but most of their albums are also available for purchase. By looking at Death Grips through Galuszka's framework we can further see how the group and the release of *No Love Deep Web* aligns with current online communities and concepts of democratization through “participation and access”, “collectivism, collaboration, and co-operation” and “decentralization of media technologies”.

Galuszka writes that “the advent of the Internet and digitalization made it possible to distribute recordings that were made for reasons other than profit. Democratization of

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<sup>33</sup> Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 7.

<sup>34</sup> Jeremy D. Larson, “Turns Out You Can Make Money Off of Death Grips' New Album *NO LOVE DEEP WEB*” (*Consequence of Sound* October 3, 2012) Accessed January 15, 2016.

the recording industry in this context could be understood as a process in which amateur and aspiring artists gain – at least in theory – access to listeners all around the world without the mediation of the profit-oriented record labels.”<sup>35</sup> This quote explains many of the actions Death Grips took in their career. In the previous chapter I quoted Zach Hill:

money is a joke to me. I’m not a person that’s ruled by it. I actually look at it as a really funny thing. There have been times in my life where I’ve had none of it and lived in absolute poverty. So I’m not scared of that. I could go back to having zero and it does not frighten me. It does not rule my world. Therefore, it’s never going to rule my art or my private life.<sup>36</sup>

While it may be argued that Hill made a statement like this as a meditated attempt to brand the group as rebellious, anti-capital, or anti-corporate, Hill's narrative is supported through the framework provided by Galuszka. Acknowledging Hill's (and presumably the rest of the band's) potential disregard for profit or capital, Third Worlds' records could be seen as an example of Galuszka's netlabels and how they have been enabled by the Internet to release recordings and artwork free from the “profit-oriented” record system.

The release of Death Grips' debut *Exmilitary* through Third Worlds is an especially apt example of netlabel activity. Death Grips at the time were aspiring artists who were able to gain access to listeners all around the world. While many aspiring artists who co-operate with netlabels do not necessarily experience the same success as Death Grips, the example of *Exmilitary* seems to show that it is at least possible now.

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<sup>35</sup> Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 6.

<sup>36</sup> Steph Kretowicz, "Interview: Death Grips." (*The Stool Pigeon*. April 23, 2012). Accessed October 10, 2015.

Even if that possibility of success remains extremely rare, success at that level without a label or indie with a major distribution deal was near impossible pre-Internet. Also, while Death Grips gained a great deal of cultural capital and name-recognition through their career (which was boosted by signing with Epic), their future releases all maintained that same access to international listeners.

Third Worlds allows for increased access and participation not only through their website but also through the use of websites like Soundcloud where they make their music available to download for free. Death Grips offers free access to any listener who has an Internet connection. Plus, fans are also able to participate in sharing and editing Death Grips music through their use of Creative Commons, which points to the next aspect of democratization.

Death Grips and Third Worlds released the isolated vocal and instrumental tracks to their albums under Creative Commons licensing, allowing artists around the world to build on and remix their creative material. This allows fans to “collaborate” with Death Grips in a way that may not have been previously possible, at least without going through the band directly to get those tracks. Death Grips can also collaborate with other established musicians such as Bjork<sup>37</sup> without necessarily having to meet with her personally or spend hours in the studio together. This aspect of democratization is further increased through the decentralization of media technologies, as explained above.

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<sup>37</sup> Ryan Reed, “Death Grips Enlist Bjork for Surprise New Album” (*Rolling Stone* June 9, 2014). Accessed February 3, 2016.

Where some of what Death Grips has done can be explained in the framework of Galuszka and Hesmondhalgh's frameworks of netlabels and democratization, Death Grips has utilized the Internet to increase their autonomy and "self-determination". The band relied much less on powerful hierarchies and rigid divisions of labour because, as mentioned earlier, they no longer needed much of the labour involved in creating physical media. Many of the digital technologies that are allowing labels to increase collectivism and their ability to operate in more co-operative ways are also allowing independent artists to operate free from any sort of label structure. Death Grips are able to use the Internet and digital technologies as a means of achieving independence without a label because they need significantly less intermediaries to facilitate a relationship or provide the capital to work with pressing plants, physical distribution networks, or marketing teams. All of these things to some extent can be achieved through the Internet by Death Grips as a band, and by small independent labels as collectives.

In this way, the digitization of the music commodity and the Internet has allowed for the ability to increase collectivism as well as independence. Where Hesmondhalgh focuses on "self-determination" from the perspective of the label more than the artists within the label<sup>38</sup> (although they had more self-determination than major label artists in some ways), Death Grips and their label are made up of the same individuals. Hesmondhalgh stressed "collectivism, collaboration, and co-operation" between artists and label personnel, but in Death Grips and Third Worlds, the artists are the label personnel. The benefits of increased autonomy at

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<sup>38</sup> David Hesmondhalgh, 1997. "Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade." *Popular Music* 16 (3), 262.

the label level and artist level are experienced by the same people (the three members of Death Grips). And even though Death Grips technically have label-mates (The I.L.Y.'s, made up of two members of Death Grips), any success by any act on the label is shared among members of the group as they are also the sole employees of the label and all of the acts on the label. In this sense the political democratization, or the governance of record-making, is increased, as the people who make the records are also the people who control the label. The two categories are collapsed and decision making is more direct, with significantly fewer (if any) middlemen between artist and label employee.

Death Grips and Third Worlds, being such small organizations, recognized that there (as mentioned in the previous chapter) is still a great deal of power in hierarchies such as Epic Records. While it remains true that “immense riches are available to a very few creative and technical personnel,”<sup>39</sup> riches are not necessarily needed for musicians to reach the same levels of success or distribution as they once were. As mentioned in the previous chapter, Death Grips was able to accumulate millions of views on their YouTube channel before signing with Epic and gaining Epic's resources. Finally, looking toward “aesthetic consequences”, we can look again to Death Grips' first release, *Exmilitary*, an album which certainly does not match aesthetically with the normal pop-oriented artists signed to Epic Records. But because the label was able to see the attention it was getting in measurable metrics (views on YouTube, listens on streaming services, etc.) through the Internet, they were able to reduce or at least calculate the risk of signing a band

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39 Ibid.



with a more experimental approach. Before the advent of the Internet, signing more avant-garde or experimental groups would have brought a much higher risk if the label could not find an audience for it, or see that an audience already existed.

So while Hesmondhalgh was writing about technology in a pre-Internet music world, his understanding of the democratizing effect of music technologies provides us with a valuable framework in which to understand not only how the Internet has increased democratization in some important ways, but also how *Death Grips* and *No Love Deep Web* were shaped and influenced by the technical infrastructure of the web and the social affordances it provides.

Digitization and the Internet have allowed *Death Grips* to use their netlabel Third Worlds as a political economic tool to distribute their music. Before getting signed, the band used the label in a way which aligned with many netlabels as described above. When the band signed with Epic, they no longer required the netlabel to achieve their goals of distributing and maximizing their art. As Hill describes, with Epic, the band wished "...To expand on [our] ideas. Getting resources to broaden the vision... We want that to grow, musically-speaking and through the content, as large as possible... We need to maximize our art by having resources for straight-up ideas that cost money. That provides us with resources to further our search within our art. That's basically what it comes down to."<sup>40</sup> Many things which could be achieved by a netlabel to accomplish their goals of artistic growth could similarly be accomplished through a major. Plus, a major label would have significantly more resources than any independent netlabel. Epic could, for example, provide the group with resources to distribute their music further,

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40 Jean Kay, "An Interview with *Death Grips*" (*aqnb* April 23, 2015) Accessed October 20, 2015.

market it to a larger audience, create significantly more physical copies, and gain access to professional recording studios. So when it came time to release their first major label album, *The Money Store*, they did not need to use their own imprint, Third Worlds. However, while a major label provided them with significant resources and capital, the band soon realized that it was at the sacrifice of agency over how their music is released. This sacrifice of agency was a result of Death Grips signing away their right to self-determination through their recording contract (a central topic of the next chapter) and when the label tried to use that contract to control the group, they leaked their album. Before, the band and their netlabel could release their records “without the mediation of the profit-oriented record labels”<sup>41</sup>; now they were faced with a label who, as described in the previous chapter, were unwilling to release *No Love Deep Web* at the time or in the manner preferred by Death Grips. The role of Death Grips' recording contract and the loss of self-determination it resulted in is a major theme of the next chapter and will be elaborated on further there.

When Death Grips wanted to release *No Love Deep Web* but found that they were limited within the confines of the major-label system, they returned to their independent label, Third Worlds, to release it in violation of their contract. Since Third Worlds operated as a netlabel, rather than a major label or typical independent label, the label was used by Death Grips as a tool of rebellion. Using their old label, Death Grips licensed *No Love Deep Web* under a Creative Commons licence,<sup>42</sup> similar to those

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41 Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 6.

42 Jeremy D. Larson, “Turns Out You Can Make Money Off of Death Grips’ New Album *NO LOVE DEEP WEB*” (*Consequence of Sound* October 3, 2012) Accessed January 15, 2016.

employed by many netlabels to maintain ownership and control over their creative works, and leaked it to the web.

Many famous artists have had their music leaked before anticipated release dates, such as Bjork<sup>43</sup> and Madonna,<sup>44</sup> but it appears that never before has a major-label act “leaked” or released their own album in violation of their contract in this way. This creates a unique situation, one which serves as a very powerful example of protest, especially in Internet contexts. Death Grips’ leak, as well as their use of Creative Commons licensing, requires some contextualization to understand its full effect. So far we have understood Death Grips and *No Love Deep Web* through the framework of Hesmondhalgh's discussion of democratization, and further through Galuszka's related study of netlabels and the Internet, but what neither scholar touch on too deeply is how democratization can appear as a tool of rebellion. In this next section I will explore how the Internet and democratization allowed Death Grips to rebel in ways that artists working pre-digitally could not, specifically through the use of Creative Commons licensing and within the context of digitally enabled political movements.

### 3.3 Cyberliberties and Democratization as a means of Decolonization

Before the release of *No Love Deep Web* the Internet had already allowed, and become a platform for, disobedience in the music industry. High-profile file-sharing services like Napster, which was the first of its kind, gained massive media attention as well as lawsuits from the Recording Industry Association of America (RIAA) and famous

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43 Alex Young, “Björk’s Record Label Details ‘Nightmare’ Leak and Subsequent Behind the Scenes Drama” (*Consequence of Sound* January 22, 2015). Accessed January 16, 2016.

44 Daniel Kreps, “Israeli Man Arrested Over Madonna ‘Rebel Heart’ Leak” (*Rolling Stone* January 21, 2015). Accessed January 20, 2016.

bands like Metallica.<sup>45</sup> These services allowed users to share digital copies of music with virtually any number of other users. Napster and other services which made use of digitization and the easy anonymous transfer of files sparked both legal and industry restructuring.<sup>46</sup> Despite the attempts to control it, the digitization of music and advent of the MP3 and other music formats and new systems have served as a significant challenge for the music industries who are trying to maintain control and ownership over creative content and property.<sup>47</sup>

While Napster was an instance of mass consumer disobedience, artists have also made use of the Internet and its ability to distribute media quickly as a site of disobedience, just as Death Grips did. A notable early example is what was known as “Grey Tuesday”. Grey Tuesday was an organized online event on February 24, 2004, in which thousands of participants posted copies of Danger Mouse's *Grey Album* at risk of prosecution. The controversy is rooted in the content of *The Grey Album*, which consists entirely of The Beatles' *White Album* and Jay-Z's *Black Album*, both of which are copyrighted material that Danger Mouse did not have permission to remix. Patrick Burkart wrote of the event:

Grey Tuesday illustrated social resistance to practice of commercial music making, music distributing, and music playing that have accompanied the compounding financial crises in the popular-music

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<sup>45</sup> Lee Marshall, 2002. Metallica and morality: The rhetorical battleground of the napster wars. *Entertainment Law* 1 (1), 1

<sup>46</sup> Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 3.

<sup>47</sup> *Ibid.*, 4.

industry, the disruptive technological innovations that challenge the industry as a middleman, and increasingly unruly audiences.

Something of a populist revolt has broken out against the music industry symbolized by collective action like Grey Tuesday, and the taken-for-grantedness of digital ‘piracy’ by music fans.<sup>48</sup>

The “Grey Tuesday” event in many ways set a precedent for *No Love Deep Web* by using the technology of the Internet to distribute a work of art which the artist who created it did not have legal ownership. The primary difference in the two cases is that Danger Mouse did not release the album as a means of violating any contractual obligations, whereas Death Grips did. Collective action such as this by both artists and fans suggests the Internet is supporting social changes in how music listeners and creators approach music as a commodity. Further, this is an example of increased democratization as it allows fans to *participate* in the copying and distributing of Danger Mouse's music as well as have *access* to the music of Danger Mouse. This ability for fans to access and participate in the release of the album is significantly enabled by the *decentralization* of media technology. The decentralization is also what caused significant problems for enforcing copyright law. The protesters taking part in Grey Tuesday were so numerous and so spread out, it would be extremely difficult for any governing body to round up all the participants and prosecute them all according to the laws of each place they lived in. While there were no specific lawsuits filed against participants in Grey Tuesday, it did trigger a response from the music industries who, “rather than meeting the challenges of

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<sup>48</sup> Burkart, Patrick. *Music and Cyberliberties*. Middletown, Conn.: Wesleyan University Press, 2010, 33.

[Peer-to Peer sharing] with innovative new business models,”<sup>49</sup> restrict access to creative content by implementing digital rights management software which disables copy, save, and edit functions of music players, software, and files.<sup>50</sup> While Death Grips was the creator of *No Love Deep Web* and Danger Mouse was the creator of *The Grey Album*, neither artist had the legal right to utilize the technology available to them to distribute their work. Danger Mouse had no rights to the music of the Beatles or Jay-Z, and Death Grips had signed away their rights to *No Love Deep Web*.

Burkart argues that artists like Danger Mouse are “challenging the current business model of distribution.”<sup>51</sup> He argues that artists challenge these models in four ways: “(1) bypassing copy protections on music files; (2) facilitating anonymous file sharing; (3) developing commercial alternatives to doing business with major labels; and (4) creating software innovations that provide open and multipurpose alternatives to closed systems.”<sup>52</sup> Death Grips significantly challenge current business models in at least three of these four ways. The band did not create any new software innovations, instead opting to use pre-existing infrastructure such as Soundcloud, Archive.org, various torrenting networks, etc. to spread *No Love Deep Web*; otherwise, they embodied these methods which Burkart says “save a place for music as a zone for reproduction of 'free culture,' identity formation, and broad participation.”<sup>53</sup> Broad participation can also be understood in terms of democratization as “participation and access,” one of the key

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<sup>49</sup> Burkart, Patrick. *Music and Cyberliberties*. Middletown, Conn.: Wesleyan University Press, 2010, 34.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid., 13.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

aspects according to Hesmondhalgh.<sup>54</sup> Working in reverse through Burkat's list we can see in what ways Death Grips followed these methods.

Starting with Burkat's third point (“developing commercial alternatives to doing business with major labels”), Death Grips negotiated a deal with Epic Records to release some of their music and music videos through BitTorrent, as briefly discussed in the previous chapter. In this instance Death Grips were able to work out alternative distribution methods and marketing tactics *within* the confines of their partnership with Epic Records, who agreed to release digital files of their music and videos for free. The band's use of BitTorrent both within and outside the scope of Epic's permission is an example of a challenge to current business models of distribution because there is no exchange of money between consumers and companies in this mode of distribution. The challenge is that there is no direct economic profit from this kind of release, although Epic instead might gain publicity for Death Grips. They may have hoped to profit through Death Grips' live shows, merchandise, or other profit streams, available to Death Grips. By giving out some of their art for free, Epic may have sought to encourage new listeners to listen to their music in hopes they would pay for their music in the future.

The use of BitTorrent also reflects Burkat's second method of challenging business structures, which is “facilitating anonymous file sharing.” The band made use of many pre-existing file-sharing websites and existing Internet infrastructure to promote anonymous file sharing. This included their own website (where they released many of their music files for free) and third-party websites (where the files were uploaded and available for download). Finally, Burkat's first point, “bypassing copy protection on

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<sup>54</sup> David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 256.

music files,” can be seen in Death Grips’ embrace of certain “Creative Commons” licensing models that allow for significantly less to no restrictions over copying music files. I will discuss these licences in greater depth in the next section.

### 3.4 Creative Commons as a Tool for Decolonization

For many commentators, the increased restrictions on creative content, specifically digital content and intellectual property (IP) in the form of “copy protection,” pose a distinct threat to artists and the cultural industries (not only artists are affected by these restrictions: academics, programmers, and many others are caught in parallel struggles which are beyond the scope of this thesis). Academics and activists such as Lawrence Lessig and Kembrew McLeod are very vocal in their advocacy for decreased restrictions on IP. This advocacy has supported the establishment around the world of a number of efforts aiming to limit owners' control of IP. The Pirate Party International, for example, “advocate on the international level for the promotion of the goals its members share such as protection of human rights and fundamental freedoms in the digital age, consumer and authors rights-oriented reform of copyright and related rights, support for information privacy, transparency and free access to information.”<sup>55</sup> Another example is Creative Commons, “a nonprofit organization that enables the sharing and use of creativity and knowledge through free legal tools”<sup>56</sup> such as easy-to-use copyright licenses. The licenses Creative Commons provides vary considerably in order to provide artists and users with ways to grant and manage rights to creative works. Artists may choose the ways their work can and cannot be used and shared by others as well as the

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<sup>55</sup> Jolly Anonymous Rodger, “About the PPI” (*Pirate Party International* December 30, 2009) Accessed January 18, 2016. <http://www.pp-international.net/about>

<sup>56</sup> Creative Commons, “About Creative Commons” *Creative Commons* Accessed January 18, 2016. <https://creativecommons.org/about/>



type of attribution required to use their work.<sup>57</sup> What is perhaps most important when it comes to artist autonomy is that these licenses provide artists with the ability to increase control over their their creative property without middlemen or having to hire lawyers.<sup>58</sup>

There are six types of Creative Commons licenses; these licenses are publicly available and can be attached to any copyrightable material by the owner or creator of that content. The six license types essentially vary in what they allow someone to do with the copyrighted material, including whether or not an item under Creative Commons can be used commercially,<sup>59</sup> whether or not it can be “remixed or tweaked” or if it has to be shared in whole,<sup>60</sup> and whether or not derivative works must be licensed under the same Creative Commons license.<sup>61</sup> To apply a Creative Commons license to a creative property, a licensor simply has to apply a “button” or “tag” to their work, which is a string of HTML code that appears on a web-page as a link to the licenses' legal terms (there are also options for copywriting non-digital or “offline” works through Creative Commons).<sup>62</sup>

Creative Commons licenses are especially useful to netlabels and artists who engage with their audiences through digital means. The Internet and digitization are built into the structure of their licenses. If an artist attaches a Creative Commons tag to their

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<sup>57</sup> Lessig, Lawrence. *Free Culture: How Big Media Uses Technology and the Law to Lock down Culture and Control Creativity*. (New York: Penguin Press, 2004),282.

<sup>58</sup> Ibid.

<sup>59</sup> Creative Commons, “About the Licenses” (*Creative Commons*) Accessed January 18, 2016. <https://creativecommons.org/licenses/>

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Creative Commons, “Frequently Asked Questions” (*Creative Commons*) Accessed January 18, 2016. <https://creativecommons.org/faq/>

digital work, that tag includes a link to a “machine-readable version of the license that enable[s] computer[s] to automatically identify content that can easily be shared.”<sup>63</sup> This makes Creative Commons licensed content easily searchable and shareable through major search engines such as Google. For artists on netlabels this allows for a greater distribution of and access to their music; for Death Grips, this was especially useful in their first release. The group not only released *Exmilitary* under Creative Commons, they also released all of the isolated vocal and instrumental tracks under a similar license. This meant artists looking for drum, vocal, or other instrumental tracks to legally sample in their own music could easily access Death Grips' work, and use it and share it even further. This type of circulation can greatly increase the means of collaboration and cooperation among media workers that are central to Hesmondhalgh's concept of democratization. Creative Commons licensing as Death Grips used it not only enabled increased “participation and access” by allowing fans and listeners to access their music more easily by allowing it to be easily searchable, it also allowed for collectivism, collaboration, and co-operation, as aspiring artists have access to Death Grips' artistic material which they can then use to make their own artistic content. This is an increase in collectivism and therefore democratization, as it adds to a shared musical culture like the one described by Hesmondhalgh at Rough Trade<sup>64</sup> only on a much larger scale. By increasing the pool of material artists can work with without having to go through legal procedures, artists are able to collaborate and cooperate with greater ease.

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63 Lessig, Lawrence. *Free Culture: How Big Media Uses Technology and the Law to Lock down Culture and Control Creativity*. (New York: Penguin Press, 2004), 282.

64 David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 262.

Burkart frames the issue of increased restrictions on IP by employing Habermas' "colonization thesis," where "communal social practices and institutions can become (...by power and money, and further) 'colonized' or taken over by 'mechanisms of system integration'" (cited in Burkart).<sup>65</sup> For many free-culture activists, circumventing, opposing, or rebelling against oppressive IP laws is an attempt to "decolonize" and change the relations between owners, investors, and creators. Decolonizing is also an example of Hesmondhalgh's democratization as it applies to governance. By decolonizing their IP relations with Epic, Death Grips are attempting to reclaim control of the music-making and music circulation processes. The group asserts control over their creative property and power over how it is released. These efforts aim at a more democratic production relationship where the artists have the most prominent voice in how their content is made, distributed, and marked.

Death Grips' unauthorized release of *No Love Deep Web* through their website, as well as their use of Creative Commons licensing, parallels many of the tactics and attitudes promoted by IP-oriented activist groups. Although Creative Commons licenses extend beyond the digital world, many of their licenses are for the purpose of open digital sharing, which has been significantly accelerated online. On the Creative Commons website, their mission statement is displayed at the top of the page which reads, "We're helping to realize the full potential of the Internet—universal access to research and education, full participation in culture—to drive a new era of development growth, and productivity."<sup>66</sup> They aim to create openings in the barriers lawmakers and companies are

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<sup>65</sup> Burkart, Patrick. *Music and Cyberliberties*. Middletown, Conn.: Wesleyan University Press, 2010, 19.

<sup>66</sup> Creative Commons "Creative Commons helps you share your knowledge and creativity with the world." (*Creative Commons*) Accessed January 16, 2016.

continually putting around creative content. Lawrence Lessig frames Creative Commons in a similar manner, stating

“[The choices made available by Creative Commons] establish a range of freedoms beyond the default of copyright law. They also enable freedoms that go beyond traditional fair use. And most importantly, they express these freedoms in a way that subsequent users can use and rely upon without the need to hire a lawyer. Creative Commons thus aims to build a layer of content, governed by a layer of reasonable copyright law, that others can build upon. Voluntary choice of individuals and creators will make this content available. And that content will in turn enable us to rebuild a public domain.”<sup>67</sup>

In these terms Creative Commons can also be understood as an effort to create a new public domain of works which are not colonize-able in the ways encouraged and supported by copyright law. However, while that may be an overall strategy of Creative Commons licensing, it can be argued that Death Grips attempted to use their Creative Commons license as a tool to decolonize the band's intellectual property *and* their employment relationship with Epic.

When *No Love Deep Web* was initially released online, according to the link the band shared to Archive.org, the album was licensed under a Creative Commons Attribution 3.0 licence.<sup>68</sup> This license, according to Creative Commons, allows anyone to

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<sup>67</sup> Lessig, Lawrence. *Free Culture: How Big Media Uses Technology and the Law to Lock down Culture and Control Creativity*. (New York: Penguin Press, 2004), 283

<sup>68</sup> Gwendolyne “Death Grips stick their cock in the eye of sony music, release their new album for free.” (*Amour and Discipline*. November 1, 2012) Accessed June 20, 2015.

“Share – copy and redistribute the material in any medium or format,” as well as “Adapt — remix, transform, and build upon the material,” all of which applies “for any purpose, even commercially,” as long as attribution and credit is given to the original artist (in this case, Death Grips). Additionally, “The licensor cannot revoke these freedoms as long as you follow the license terms.”<sup>69</sup> This license is not only significant for its scope of rights it gives to the person who downloads music from Death Grips, but because it also allows music to be used in commercial settings. The decision to make use of this specific licence seemed to be an attempt to provoke Epic Records by allowing the work to be used for commercial purposes. This challenges record company business models which have traditionally been based on exclusive control over IP and over the musical labour of contracted performers. The use of this license highlights the two relationships at play here: Death Grips’ relationship to their IP and their relationship to their labour as employees of Epic (a relationship which will be explored in more depth in the next chapter). These two relations are so entangled that to decolonize in one area is to throw the other one into question.

Death Grips’ relationship to their IP tends to be fairly lenient as far as allowing people to share, remix, and copy. The groups' first release, *Exmilitary*, made use of a Creative Commons Attribution-Noncommercial 3.0 License.<sup>70</sup> This license shares similarities insofar as it allows for the sharing, remixing, copying, adapting, etc. that the other license provides, as long as credit is given to the artist. However, since this is a noncommercial license, none of the material under this license may be used for

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<sup>69</sup> Creative Commons “Attribution 3.0 Unported” (*Creative Commons*) Accessed January 16, 2016. <https://creativecommons.org/licenses/by/3.0/>

<sup>70</sup> Death Grips “*Exmilitary*” (*Archive.org* April 26, 2011). Accessed January 17, 2016. <https://archive.org/details/DeathGrips-ExMilitaryMixtape>

commercial purposes.<sup>71</sup> The fact that Death Grips did *not* allow their previous work to be used for commercial purposes helps clarify their deliberate use of a specific Creative Commons license suited to strong decolonization of their relationship with Epic by attacking the company's ability to profit on *No Love Deep Web* and allowing for unrestricted, commercial, and non-commercial competition. In this way, the band maintains their attitude, shared by some netlabels and other free culture political movements, of being unconcerned with their own economic profit. As some have pointed out,<sup>72</sup> the use of this particular Creative Commons license further weakens the argument that the release of *No Love Deep Web* was merely a publicity stunt. It is extremely unlikely that Epic would have supported a move so contrary to the record industry's basic business model.

Shortly after the release of *No Love Deep Web* under this license, the album was switched to the Creative Commons Attribution-Noncommercial license, for reasons not made clear by the band. However, it is certainly possible that Epic intervened so they could maintain some ownership over the album, although even this more restrictive Creative Commons license is more lenient than Epic's usual copyright practices. It is possible that Death Grips switched the license to avoid severe legal consequences; the band and the label have not made comments on the details of the licensing switch.

Recent innovations in Internet, digital, and legal technology are allowing artists to bypass the need for major labels in the first place. With Death Grips we see the use of

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<sup>71</sup> Creative Commons "Attribution-Noncommercial 3.0 Unported" (*Creative Commons*) Accessed January 16, 2016. <https://creativecommons.org/licenses/by-nc/3.0/>

<sup>72</sup> Lessig, Lawrence. *Free Culture: How Big Media Uses Technology and the Law to Lock down Culture and Control Creativity*. (New York: Penguin Press, 2004),

these technologies in their releases as both independent artists and as major label artists.

For the bands' first release, Creative Commons allowed them to maintain control over their music more directly without middlemen or lawyers. For the release of *No Love Deep Web*, Creative Commons and digital distribution became a tool of disobedience, a part of their attempt to decolonize their music from the control of Epic Records.

Decolonization, it should be remembered, usually involves some type of revolution or insurgency in which the colonizers are removed. Death Grips' insurgency involved the illegal sharing of their files as well as the violation of their recording contract (which will be explored in the next chapter).

### 3.5 File-Sharing as Political Action

Tools such as Creative Commons licenses and organizations such as netlabels all are operating within, building upon, or trying to reform current laws and conventional commercial structures. What makes the case of Death Grips' release of *No Love Deep Web* more significant is its' illegal nature. The release of *No Love Deep Web* stands out because it goes beyond the norm of an artist releasing their music independently free from conventional structures and hierarchies, but instead acts in opposition to those structures and hierarchies and interferes with their operations. This makes Death Grips' action more strikingly political in nature: it is an example of an artist defying the law as well as opposing their employment contract. It is an attack on the employee/employer relationship and the corporate hierarchy the group had become a part of.

According to Kostas Kasaras,

[O]ne could argue that digital music piracy is a political action. Despite the personal motives of those that create file-sharing Web sites or of those that

consume free music, the fact that their actions offend the oligarchical music industry makes their behaviour political. Their actions are political - in terms of ideology - because they subvert the existing economic structure of profit with new ways of distributing a commodity, based usually on the principle of an ideal non-profitable equality.<sup>73</sup>

Kasaras here is talking about consumers who engage in file-sharing online, assuming that the artists themselves are separate from and perhaps opposed to this group. Nevertheless, Death Grips' release of *No Love Deep Web* is an example of distinct political action by Kasaras' definition. Kasaras goes on to argue how artists' file-sharing behaviour becomes political:

Artists using this technology are also making a political statement. It is a *de facto* political action because it offends the organization of the musical industry, and emancipates artists to develop their music without constraints. Artists in turn are free to follow their own distribution philosophies, to develop their own political and economic attitudes towards their audiences.

Hence digitally distributed music - regardless of its subject - is *a priori* political. Music in the age of the digital distribution cannot be autonomous, without political implications, as *l'art pour l'art*.<sup>74</sup>

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<sup>73</sup> Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 10.

<sup>74</sup> Ibid.



Galuzska and Hesmondhalgh can be put into conversation with Kasaras here.

Hesmondhalgh's concepts of democratization as they relate to governance and Galuzska's application of democratization to netlabels both are examples of artists engaging in political action by using technology to “offend the organization of the musical indust[ries] and emancipate artists to develop their music without constraints.”<sup>75</sup>

Hesmondhalgh's research on Rough Trade shows that their alternate approach to industry organization began with the contracts between musician and label. Hesmondhalgh describes the contracts between Rough Trade and their artists as finding “new ways of dealing with artists... which challenged the standard arrangements in the music industry. Deals with musicians were often on a 50:50 basis, rather than the usual single figure percentage royalty rates. Long-term contracts were rejected in favour of deals based on personal trust. The aim of such deals was to be as 'musician-centered' as possible.”<sup>76</sup>

Hesmondhalgh maintains this “musician-centered” notion and claims that the unusual deals offered by Rough Trade and similar independent labels allowed musicians to focus on their music or “develop it without constraints” as Kasaras might say, or at least without the normal constraints of the 1980s and 1990s. Hesmondhalgh's study of Rough Trade also offers an example of Kasaras’ notion of political action because, although it's not digital, “they subvert the existing economic structure of profit with new ways of distributing a commodity, based usually on the principle of an ideal non-profitable

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<sup>75</sup> Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 10.

<sup>76</sup> David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 261.

equality.”<sup>77</sup> Hesmondhalgh highlights throughout his article the ways in which Rough Trade and similar labels subvert existing structures, not just in the contracts they signed with their artists, but also in how they structured themselves organizationally. These subversions were always in an attempt to focus on equality, not just among musicians, but also non-musical label employees. For example, Hesmondhalgh describes Rough Trade in contrast to other labels by writing, “How was this radical internal democracy manifested? One instance of it returns us to the crucial issue of the relationship between company and musicians. Compared with other record companies, there appears to have been an unparalleled atmosphere of debate and discussion amongst non-musical staff about the records they were distributing.”<sup>78</sup> As mentioned earlier this was an example of how employees at Rough Trade harbored a sense of collectivism and increased democratization in how the label was governed. This focus on equality and being “musician-centered” often was a correlate of being non-profit or less-profit oriented, making it further political according to Kasaras' framework.

In Galuzska's account of netlabels, digital distribution as a political action goes even further. As mentioned before, Galuzska builds on Hesmondhalgh's concept of democratization when discussing the use of technology by netlabels to distribute their music. Where Rough Trade and the other labels Hesmondhalgh describes are still tied to external economic structures such as vinyl pressing plants and physical distribution which required them to be more active and engaged within the capitalist production of music commodities, netlabels are able to separate themselves further and work in greater

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<sup>77</sup> Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 10.

<sup>78</sup> David Hesmondhalgh, 1997. “Post-punk's Attempt to Democratise the Music Industry: The Success and Failure of Rough Trade. *Popular Music* 16 (3), 268.

autonomy as they do not require to be profitable at all. If Rough Trade did not engage in selling and profiting from their albums, they would not be able to pay their artists, pay pressing plants to make the albums, pay distributors to move them to stores, etc.

Netlabels do not need to pay production or distribution costs and are often structured without profit in mind, attracting artists who are similarly disinterested in profit or willing to make their music for free.<sup>79</sup> This can be seen as an example of the political action described by Kasaras. Netlabels “are free to follow their own distribution philosophies, to develop their own political and economic attitudes towards their audiences.”<sup>80</sup> These attitudes can now extend beyond what was possible with Rough Trade because netlabels are able to operate outside of profit making even more so than before and are able to focus on different types of capital other than economic, such as social capital. According to Galuszka, “monetary rewards are not the main priority for netlabels. Since in the majority of cases they earn no money, they cannot pay their artists any royalties. Consequently, the system of rewards is not built on money but based on status and prestige.”<sup>81</sup> This is an example of “subvert[ing] the existing economic structure of profit with new ways of distributing a commodity,”<sup>82</sup> making the structure of netlabels inherently political in nature according to Kasaras’ arguments.

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79 Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 8.

80 Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 10.

81 Patryk Galuszka, 2012. “Netlabels and Democratization of the Recording Industry.” *First Monday* 17 (7), 12.

82 Kostas Kasaras, 2005. Music in the age of free distribution: MP3 and society. *First Monday* 10 (1), 10.

For Death Grips, their “emancipation” came through the possibilities of democratization offered to them through digitalization and the Internet. Further, Death Grips had been able to develop “their own distribution philosophies [and] develop their own political and economic attitudes toward their audiences” before signing their contract with Epic. Digitization allowed for an opportunity for Death Grips to take action against what they viewed as unideal working conditions. For Death Grips, the loss of control and agency over their own work was unideal, as they had managed to maintain a great deal of control up until this point. In their interviews the band explains their own approach to distribution philosophies as well as their political and economic attitudes toward their audience. In an interview with *Pitchfork*, they say:

The number one thing is we don't look at people who are connected with our music, or who are enjoying it, as consumers, and we're not businessmen – it's not like that. There's a relationship, and that should always be the front line of what we're doing, but it's a relationship between two groups of people, it's not a transaction. When you put something out, you're telling people to pay attention, to connect with it. So asking for something in return – and I know this is kind of a more utopian idea – it seems like that shouldn't be the focus.<sup>83</sup>

Not only does this resonate with Kasaras' point about artists being free to develop their own philosophies of music release and distribution – as well as freedom to develop their own “political and economic attitudes towards their audience” – but it similarly coincides with Galuzska's research and understanding of netlabels. The Internet has allowed Death

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83 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

Grips to engage in disobedience that escapes the confines of the employer/employee relationship that they had with Epic Records and allows them to take political action, which positions them outside of the normal scope of capitalist music making and allows for art creation that is not focused on profit making. For Death Grips to even be able to use language such as “we're not businessmen,” or “it's not a transaction,” is an example of how, through digital technology, they are able to operate outside of the traditional political-economic structures of the music industry. Death Grips’ “utopian idea” mirrors that of Kasaras’ “ideal non-profitable equality” enabled by their use of digital distribution and their subversion of traditional economic structures of profit. And their actions, discussed in this and the next chapter, strongly suggest that the band puts their money where their mouth is.

### 3.6 Conclusion

Perhaps what is most interesting about the release of *No Love Deep Web*, when looking at it through Internet activism, is Death Grips’ continued tendency to occupy two seemingly opposed worlds. On the one hand, the group fully participated in the major-label system, being signed to Epic and acting as their employees for a period. Simultaneously, the group was deeply entrenched in new Internet-enabled politics which are rooted in anti-capitalist mentalities.

As described in Hesmondhalgh's article, technology is allowing for much greater democratization and participation within the music industry. Participation and access have especially been accelerated by the Internet as well as the digitization of the music commodity. Now, not only are artists more capable of creating their music without relying on professional music studios, the costs of which would have been provided by

record labels, they are given more control over distribution, marketing and much more online. Artists are not only capable of creating records without necessarily concerning themselves with sales; they are also capable of controlling the copyright and ownership of their music through legal tools made available online. One of the major ways that the Internet has allowed for more participation and access is by providing a platform for netlabels, further allowing artists to gain control over their work as well as collaborating with like-minded individuals and fellow artists to work together and release their music. The Internet also provided a digital platform for many political movements as well as new ways of disobeying and challenging the status quo of IP.

Death Grips began their career encapsulating many of these ideals by running their own netlabel, releasing their music under Creative Commons licenses, distributing their music for free, as well as making freely available isolated vocal and instrumental tracks that encouraged further copying and remixing of their work free from the threat of persecution. Death Grips not only allowed for significantly less restrictive sharing of their intellectual property, but actively encouraged listeners and other artists to make use of their music in creating their own art and music, further allowing for participation and access to their music.

When the group signed a deal with Epic Records this behaviour, despite its anti-capitalist logic, remained a part of the band's approach to music-making. By encouraging Epic to make a deal with BitTorrent and release some of their material for free, Death Grips, from within the industry, allowed for the unrestricted dissemination of their own corporate-controlled music. This allowed for participation and access in the colonized world of recording contracts and digital rights management. They were able to loosen the

restrictions on their IP and help provide access to music fans without requiring the fans to engage in illegal activity.

Finally, however, when the group released *No Love Deep Web* and Epic was no longer willing to participate with the group to the extent they wished, the group once again resorted to the Internet to rebel against their recording contract terms. They released the album online, just as they had for *Exmilitary* and partially with *The Money Store*, this time using Creative Commons as a tool against their record label and as a means of trying to reclaim power and agency over how their music was distributed and consumed.

*No Love Deep Web* in a digital context once again highlights the differences between independent labels and major labels, as well as how Death Grips navigated both worlds. The Internet is allowing for independent labels to make radical structural changes in how their music is created, distributed, and consumed. These same changes are forcing a reaction from the major labels who are both trying to adapt and maintain control over music and its profits. Death Grips serves as an example of a group who operated by the new rules of independent labels while still managing to infiltrate the major-label world, resulting in a disruption which mirrors and affects current online-based political movements.

In the next chapter I will be shifting focus towards Death Grips' relationship to their labour and their employment contract with Epic, looking at how Death Grips violated the terms of their labour contract and how their status as employees further helps frame their disobedience. To do this, I will use the framework of California's unique

labour laws as they apply to recording artists as well as notions of “contractarianism” as understood by scholars such as Carole Pateman and Matt Stahl.



## Chapter 4

### 4 Death Grips and Labour

In 1992 an electronic-music group called The KLF (The Kopyright Liberation Front) was scheduled to perform their hit song “3AM Eternal” at the Brit Awards. The song, which had been previously released and then reworked to be more radio friendly,<sup>1</sup> was an electronic dance record featuring rapping from Ricardo da Force. The song was very popular and sold well; at its peak “3AM Eternal” got to #5 on the American Billboard Charts<sup>2</sup> and #1 on the UK Charts.<sup>3</sup> Its international popularity made the group a natural choice for performing at the industry event. However, The KLF were not concerned with popularity, the music industry, or following any kind of protocol in their performances. Led by Bill Drummond and Jimmy Cauty, the group were known as notorious pranksters and decided to use the Brit Awards to shock the British music industry and the viewers at home. To do this, the KLF hired a grindcore (an aggressive, abrasive metal subgenre) group called Extreme Noise Terror to be their backup band at the ceremony. This resulted in a performance that, sonically, was radically different from the popular recorded version which, despite its popularity, many audience members did not even recognize.<sup>4</sup> The performance also featured Drummond with a cigar in his mouth,

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1 John Higgs, *The KLF: Chaos, Magic and the Band Who Burned a Million Pounds* (Big Hand, 2012), 136.

2 Billboard Charts, “The KLF – Chart History” (*Billboard*) Accessed February 12, 2016 .<http://www.billboard.com/artist/418144/klf/chart>

3 Official Charts “The Klf – Full Official Chart History” *Official Charts* Accessed February 12, 2016. <http://www.officialcharts.com/artist/27412/klf/>

4 John Higgs, *The KLF: Chaos, Magic and the Band Who Burned a Million Pounds* (Big Hand, 2012), 189.

opening fire on the audience with a machine-gun loaded with blank rounds.<sup>5</sup> Following the show, a dead sheep (which was originally intended to be dismembered on stage during the show<sup>6</sup>) was thrown onto the red carpet of the awards show after-party with a sign that read “I died for ewe”.

The actions of The KLF at the 1992 Brit Awards are exemplary of a type of disobedience similar to that which Death Grips engaged in. Each group has engaged in various degrees and methods of disobedient action including active disobedience, such as releasing *No Love Deep Web* without permission, and passive disobedience, like not showing up to scheduled shows. Both bands engaged in actions that directly (to return to the language of Kasaras from the previous chapter) “offend the oligarchical music industry.”<sup>7</sup>

In this chapter I will analyze Death Grips and the release of *No Love Deep Web* and other actions taken by Death Grips as forms of disobedience, such as the leaking of emails from Epic's legal department. By bringing together other prominent examples of disobedience in popular music – such as the actions of the KLF, Danger Mouse, and others – I plan to contextualize and understand Death Grips' disobedience within recent popular music industry history. To do this, I will work with the actions of Death Grips from two scholarly perspectives. First, I will approach the actions of Death Grips from an aesthetic perspective, using Johnathan A. Neufeld's concept of “aesthetic disobedience”

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<sup>5</sup> John Higgs, *The KLF: Chaos, Magic and the Band Who Burned a Million Pounds* (Big Hand, 2012), 193

<sup>6</sup> *Ibid.*, 192-93

<sup>7</sup> Kostas Kasaras, 2005. “Music in the age of free distribution: MP3 and society.” *First Monday* 10 (1), 10.

as a framework,<sup>8</sup> especially how it helps explain Death Grips' use of a photograph of a penis as the album art for *No Love Deep Web*. Neufeld's "aesthetic disobedience" is built upon related concepts of civil disobedience; both concepts are applicable to the release of *No Love Deep Web*.

Second, I will employ a perspective of labour which will highlight Death Grips' position as employees of Epic Records. Here I will focus on how the release of *No Love Deep Web*, as well as the resulting termination of their contract, can be understood in the context of musicians as labourers. This disobedience is understood against the back drop of struggles between recording artists and record companies concerning various labor laws in California.<sup>9</sup> This will be understood through the framework of Carole Pateman regarding contractarianism and "property in the person" (terms which will be elaborated on later) as well as Matt Stahl's use of those frameworks as they relate to recording contracts.

Where chapter three was focused on Death Grips and their relationship with their creative and intellectual property, this chapter is focused on Death Grips' actions and how they can be understood in labour and political contexts as well as artistic and aesthetic contexts. It is important to remember the recording contract allows for domination, exploitation, and alienation of the musician's labour as well as their IP. These two aspects are closely intertwined and related, so while this chapter focuses on the group's labour and actions, their IP remains relevant here. The chapter also looks at Death Grips and

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<sup>8</sup> Jonathan A. Neufeld, 2015. "Aesthetic disobedience." *The Journal of Aesthetics and Art Criticism* 73 (2), 115.

<sup>9</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 103.

how their actions relate to their fans, particularly how the typical band/fan relationship is altered by the actions of Death Grips in releasing *No Love Deep Web* with a taboo album cover.

## 4.1 Narratives of Disobedience in Popular Culture

When addressing disobedience, we must acknowledge that there are different kinds and degrees of disobedience. Especially in popular music narratives, the degrees of disobedience vary. Genres like punk-rock or hip-hop, which have their origin in counter-cultural and rebellious politics and aesthetics, often become incorporated into the capitalist mode of production and eventually become a commercial product or “part-of-the-system” as much as commercialized pop music. To understand how Death Grips' story differs from previous groups, it is important to briefly understand how disobedience and rebelliousness has materialized in modern popular music narratives. Christian Lahusen in his book *The Rhetoric of Moral Protest* describes the way in which rebelliousness and counter-cultural ideals expressed through Western rock and pop music eventually get absorbed by capitalist systems:

Western rock and pop music goes back to the times when teenagers rebelled against parental supervision and found in nascent rock'n'roll a distinct generational identity. This emerging youth culture set itself off from the adult world through hedonism. (their stress on leisure and enjoyment) and rebelliousness (the importance of distinction and provocation)... Since then musicians and audiences have grown older. The counter-discourse as a biological, social and psychological state that called for self-realization in the

public arena and the market-place of consumption has been institutionalized as 'dominant discourse'.<sup>10</sup>

This quote demonstrates a common narrative in music. When a new genre or band emerges they may at first be seen as rebellious or disobedient, only to later be incorporated by the system of capitalist commodification and become a member of the systems they once rebelled against or disobeyed. A group like N.W.A., for instance, who sparked massive controversy with songs such as “Fuck Tha Police”, initially spoke out directly against political and legal structures, which resulted in action from the FBI and various police departments within the United States.<sup>11</sup> Many people refused to play the group's music and the group were faced with fines as high as \$25,000 if they played “Fuck Tha Police” in public.<sup>12</sup> It would be difficult to imagine the group being awarded by music or art institutions at the time, but as the group and their audience aged, their acceptance in the marketplace and public arena has been realized just as Lahusen describes above. Nearly 30 years after their release of “Fuck Tha Police,” the group is being inducted into the Rock and Roll Hall of Fame,<sup>13</sup> gaining Academy Award nominations for a film about their rise to fame,<sup>14</sup> and Dr. Dre of the group has made

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10 Lahusen, Christian. 1996. *The rhetoric of moral protest: Public campaigns, celebrity endorsement, and political mobilization*. (New York. W. de Gruyter), 85.

11 Richard Harrington, “The FBI as Music Critics” (*The Washington Post* October 4, 1989) Accessed Online February 12, 2016.

12 Ibid.

13 Andy Greene, “N.W.A, Deep Purple, Cheap Trick Chosen for Rock and Roll Hall of Fame” (*Rolling Stone* December 17, 2015). Accessed February 17, 2016.

14 Jess Denham, “Black cast of Straight Outta Compton not Invited to the Oscars” (*The Independent* January 29, 2016). Accessed February 17, 2016.

billion dollar business deals.<sup>15</sup> The group, which at one point was a symbol of the anti-establishment, is now deeply embedded within artistic and economic institutions.

Prior to signing with Epic, Death Grips embodied many counter-cultural ideologies and forms of rebelliousness. Their use of digital technology, as described in the previous chapter, to engage in DIY music making, distribution, and marketing can be understood as being anti-capitalist as it operated outside of profit-making structures. Their first release, *Exmilitary*, was aesthetically aggressive, taking musical cues from punk, hip-hop, noise-rock, and more. The mixtape also opens with a monologue from Charles Manson describing his dissatisfaction with the record industry, comparing it to a jail.<sup>16</sup> This sets Death Grips' type of disobedience apart from the above mentioned groups. Where early punk and hip-hop groups were disobedient in the messages in their music, interviews, and so on, they were still engaged in some form of commodifying their music and selling it on the market, eventually through major labels, as in the cases of N.W.A., or the Clash. Even when those groups were embodying DIY methods of production and distribution they were limited to physical commodities, which, as seen in the last chapter, required them to engage in some form of capitalist production and engagement in order to reach mass audiences. Death Grips on *Exmilitary* could have anti-capitalist messages and not have as many potential contradictions in their actions. This is because they released the music to the public and were not dealing with corporate-owned pressing plants, distribution networks, or record stores of the kinds that pre-digital DIY groups would

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<sup>15</sup> Brian Soloman, "It's Official: Apple Adds Dr. Dre With \$3 Billion Beats Deal" (*Forbes* May 28, 2014) Accessed February 17, 2016.

<sup>16</sup> Death Grips. "Beware," *Exmilitary*. MP3, Third Worlds. 2011.

have had to engage with to some degree to copy and distribute their music on a mass scale.

As it did with other bands that came before them, it came as a surprise to many that Death Grips signed with Epic in the first place. *Billboard* wrote, “What’s unusual is how the group responded to Epic’s pitch, [agreeing to sign a deal with them] especially given [the band’s] anti-establishment attitude.”<sup>17</sup> The music blog *Aux* wrote that the band signing with Epic was a “surprise”<sup>18</sup>; another music blog, *Epitonic*, wrote “their signing [to Epic was] really strange and disappointing,”<sup>19</sup> which mirrored the responses that many had to punk acts like the Clash, who were “lambasted for signing to CBS.”<sup>20</sup> If it were not for the leak of *No Love Deep Web*, Death Grips may have just been another rebellious group swallowed and depoliticized by the capitalist mode of production just like the rebellious groups before. The leak of *No Love Deep Web* removed them from the familiar narrative and placed them in a new category of disobedience. What separated Death Grips from other groups was their outright breaching of their recording contract with Epic. Where many other bands may have had rebellious political messages in their music and art, many of them still took part in the world of making and selling records, which may have started small and DIY but often evolved into something larger involving major labels and corporate control. Death Grips began without selling their albums and

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17 Steven J. Horowitz, “Death Grips Talk Epic Record Deal & New Music” (*Billboard* April 23, 2012) Accessed February 15, 2016.

18 Tyler Munro, “Death Grips Sign to Epic Records, Announce Two New Albums for 2012” (*Aux* February 27, 2012) Accessed February 16, 2016.

19 Parker Langvardt, “The Death Grips Saga” (*Epitonic*) Accessed February 17, 2016.  
<http://www.epitonic.com/editors/parker-langvardt/death-grips-saga/>

20 David Hesmondhalgh and Leslie Meier “Popular Music, Independence and the Concept of Alternative” in *Media independence: Working with freedom or working for free?*. (London; Routledge, 2015), 98.

eventually moved into selling them through Epic, only to disobey their contract and return to releasing music for free. The disobeying of contractual terms and agreements puts Death Grips in a unique position of disobedience: a disobedience which, when seen through the frame of contract, music as labour, and one that, despite being signed by groups who are often portrayed as being rebellious are rarely so spectacularly violated in the way Death Grips violated their contract.

Death Grips and other groups engaged in what Neufeld refers to as “aesthetic disobedience,” which he describes by building on definitions of civil disobedience. The main difference between the two is that aesthetic disobedience (sometimes in tandem with civil disobedience) aims to disobey art-world conventions. Aesthetic disobedience has occurred long before Death Grips; groups I have mentioned above such as N.W.A. have engaged in aesthetic disobedience. The difference with Death Grips is that in addition to their aesthetic disobedience, they practiced a form of civil disobedience that makes them much harder to commodify in the capitalist realm. Aesthetic disobedience can seem radical to consumers and onlookers of the art-world, but on its own is much easier to commodify than a combination of aesthetic and civil disobedience. I suggest this is the reason why Death Grips was able to sever ties with Epic and avoid becoming institutionalized like some aggressive punk or hip-hop acts.

## 4.2 Aesthetic Disobedience

In his paper “Aesthetic Disobedience,” Neufeld sets out to describe a form of artistic transgression which he claims “runs parallel to civil disobedience.”<sup>21</sup> Neufeld

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<sup>21</sup> Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), abstract.



builds on John Rawl's definition of civil disobedience, writing: "Roughly, civil disobedience is a public communicative act that breaks a law in order to draw attention to and reform perceived conflicts between law and other shared normative commitments."<sup>22</sup> Death Grips, for instance, could be said to have engaged in civil disobedience by releasing *No Love Deep Web* as they took property of Epic (broke a law) and released it publicly (communicative act) without permission of the label, which resulted in media attention toward the conflict between their own interests and the label's interests. These interests can be extrapolated, as in the previous chapter, to conflicts between laws (regarding copyright, digital property, etc.) and other normative commitments (commitments of artistic communities to want to share information and art without the restrictions imposed by overzealous copyright laws). According to Neufeld, there are five central characteristics of civil disobedience (CD) which I have reproduced below:

CD1. The acts violate the law.

CD2. Civil disobedients accept the risk of legal punishment for their actions.

CD3. The acts are performed publicly—they are communicative.

CD4. The acts aim to draw attention to a conflict or a set of conflicts between normative and legal commitments or authority.

CD5. They aim to promote a change within the legal system.<sup>23</sup>

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<sup>22</sup> Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 116.

<sup>23</sup> Ibid.

Referring again to Death Grips, we can see how they fulfill each characteristic of civil disobedience. CD1, they broke their legally binding contract with Epic when they released *No Love Deep Web* to the public. This could also be seen as a form of theft since Epic owned the masters of the album.<sup>24</sup> CD2, Death Grips accepted the risk of legal punishment for the action of releasing *No Love Deep Web*; in an interview with *Pitchfork* the band described dealing with the fall-out from Epic and being released from their contract as such: “We made our own decisions, knowing it was going to be [difficult] if we took the path we're on.”<sup>25</sup> Here they are acknowledging they made their decisions knowing the potential consequences. CD3 is apparent; the band released the album online, on publicly accessible websites. They removed as many restrictions as possible on who could access the album, which also resulted in attention from the press that further made the issue public. The group’s fulfillment of CD4 may not be readily apparent in the release of *No Love Deep Web* as an isolated incident; however, immediately following the release of the album the group leaked a series of emails from Epic's legal department (I will go into greater detail in regards to the contents and significance of these emails later) that clearly demonstrate a conflict between Death Grips as artists who wish to exercise artistic autonomy over the release of their creative property and Epic, who have legal and authoritative control over that property. The emails reveal certain legal specifics which Death Grips violated to exercise their autonomy over their artistic products. These actions from Death Grips draw attention to wider issues within the recording industry regarding artists and their rights over their IP.

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24 Jenn Pelly, “Death Grips Post *NO LOVE DEEP WEB* Infringement Letter From Epic Records on Facebook” (*Pitchfork* October 31, 2012). Accessed February 16, 2016.

25 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

Finally, CD5: again, speculating on the motivations of Death Grips can be difficult from interviews alone, but the band expresses interest in changing the structures of the music industry. In an interview discussing business models common to the music industries, the band said, “we don't like the old model, the old guard – we're very against it, and we believe you can push things in a new direction. For example, we got the label to make a deal with BitTorrent – that's their enemy, that's unheard of.”<sup>26</sup> The “old model” and “old guard” is in reference to the major labels and how they operate. Death Grips expresses here an ambition to change those models, which would require overhauling how digital and artistic property is treated legally, especially if they aim to release that property for free through services like BitTorrent.

From here the philosophical step Neufeld makes to “aesthetic disobedience” is very direct. He presents parallel characteristics outlining what constitutes “aesthetic disobedience” (AD), which are:

AD1. Acts of aesthetic disobedience violate a deeply entrenched artworld norm or a set of norms.

AD2. Aesthetic disobedients accept the risk of sanction for their actions.

AD3. Acts of aesthetic disobedience are performed publicly—they are communicative.

AD4. Acts of aesthetic disobedience aim to draw attention to a conflict between normative commitments and entrenched norms of the artworld.

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<sup>26</sup> Brian E. Gieban, “Death Grips: 'There is a lot of Destruction and Recycling in Our Music'” (*The Skinny* May 2, 2012). Accessed October 20, 2015.

AD5. Acts of aesthetic disobedience aim to promote a change within the entrenched norm's art-world.<sup>27</sup>

A musical analysis of Death Grips' music could fulfill these characteristics, as their music defies a number of musical conventions in many of the genres it gets placed within (hip-hop, punk, electronic, noise, etc.).<sup>28</sup> However, an analysis of Death Grips' music is beyond the scope of this research. Luckily for us, the definition Neufeld provides of aesthetic disobedience, as well as Death Grips' use of a close-up photo of a penis for the artwork of *No Love Deep Web*, provide us with more immediate understandings of how Death Grips embody the above characteristics on multiple aesthetic levels.

With the album art for *No Love Deep Web* we can see one of the several ways in which *No Love Deep Web* (as a work of art) and Death Grips (as artists) embody the above characteristics of aesthetic disobedience (AD). AD1: By placing an image as risqué as a penis on the cover of *No Love Deep Web*, Death Grips subvert one of the main purposes of album art, which is to market the album. Outside of a few more niche genres, album art does not normally contain graphic material, especially since it makes it difficult for stores to stock and sell the album (*No Love Deep Web* was eventually released in physical form and was sold with a black sleeve over the album art with a warning sticker<sup>29</sup>). The cover embodies AD2, as it was both premeditated by the band before the idea of releasing the album illegally<sup>30</sup> and because they refer to the cover as being a

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<sup>27</sup> Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 118.

<sup>28</sup> Nate Patrin, "Death Grips: *Exmilitary*" (*Pitchfork* June 30, 2011) Accessed February 16, 2016.

<sup>29</sup> Gregory Adams, "Death Grips Officially Announce Commercial Edition of '*No Love Deep Web*' (*Exclaim!* September 13, 2013). Accessed February 18, 2016.

<sup>30</sup> Jenn Pelly, "Interviews: Death Grips" (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

representation of “fearlessness,”<sup>31</sup> including fearlessness of artistic and social consequences. AD3, again can be seen in the same ways as CD3, insofar as the album and its art was released in a highly publicized way and was accessible by anyone with an Internet connection. AD4, like CD4, relies on referring to interviews with the group and what they perceive the album’s cover to represent. In an interview with *Pitchfork* they explain, “We started Death Grips being very pro-homosexual and pro-individual-- the idea of being OK with yourself no matter what. It really has to do with acceleration-- culturally, on a world level-- of sexuality in general, and getting past homophobia. People should be able to look deeper into something rather than just seeing some dick. It's also a spiritual thing; it's fearlessness.”<sup>32</sup> In other words, Death Grips wish to challenge cultural and societal norms surrounding sexuality in the public sphere and the art world. This stands as a direct challenge to the heteronormativity that so often permeates the art world. This embodies AD4 as it draws attention to conflicts between normative commitments and artworld norms; it also represents AD5 because the group hopes to change these norms. The album’s cover art is just one way in which the group and the release of *No Love Deep Web* represent aesthetic disobedience. The band, in their challenging of Epic's institutional norms, can also be seen as aesthetic disobedients.

Neufeld highlights the difference between aesthetic disobedience and civil disobedience by acknowledging the ambiguity in what could constitute aesthetic disobedience. He emphasizes that laws of a government or state are more clear and codified than the norms of the art world: “there are clear cases of norms that have the entrenched status of law and whose violation provokes relatively clear and significant

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31 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

32 Ibid.

reactions from various authorities in the artworld.”<sup>33</sup> Examples he gives refer to art which violates fundamental aspects of the norms of artistic compositional structure, such as Warhol and Duchamp who presented works of art that question the nature of what kind of object can be art.<sup>34</sup> In the world of music he makes reference to Schoenberg, who challenged the fundamental norms of tonality in Western music, or Cage who, like Warhol and Duchamp, challenged what kinds of sound can be presented as musical.<sup>35</sup> This line of reasoning progresses as Neufeld discusses the nature of what constitutes an aesthetic act, and he states “not all acts of aesthetic disobedience are artistic acts.”<sup>36</sup> Neufeld opens his definition up to acts which “[break]... formal norms of visual artworks [as well as a] variety of institutional norms of the artworld governing the dissemination, display, and even ownership of artworks.”<sup>37</sup> In other words, the release of *No Love Deep Web* without the permission of Epic can itself be seen as a form of aesthetic disobedience, as the group challenged institutional norms of “dissemination, display, and ownership” common in the music industries. *No Love Deep Web* violates dissemination norms, because the band did not go through the regular channels of album release by an artist signed to a major label. As I have outlined throughout this thesis, the band circumvented the distribution networks provided to them by the label, and opted for DIY distribution through the Internet. DIY distribution online is a norm of independent artists and labels, but not a norm of a major label artist like Death Grips. Display conventions are violated

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33 Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 119.

34 Ibid.

35 Ibid. 118-119

36 Ibid., 119

37 Ibid., 120.

as when the group did release the album, they were required to sell it in a black sleeve by retailers; they were unable to display the artwork in ways albums are typically marketed. It would be nearly impossible (within the law) to, for instance, erect a billboard with the album cover on it, as some companies might as promotion. Finally, notions of ownership are challenged as the band initially released the album under a Creative Commons licensing that a major label would never allow because it undermines their ability to profit from the album and challenges their ownership of the creative work.

Neufeld also extends acts of aesthetic disobedience to include the actions of the audience. He uses the example of a 1984 performance of the prelude from Wagner's *Tristan and Isolde* in Israel (Wagner, being a notorious anti-Semite, has been subject to an “unofficial ban” in Israel<sup>38</sup>). The performance was met with boos from the audience and many members left the performance; at one point an audience member climbed onto the stage and touched a performer's arm in an attempt to get them to stop.<sup>39</sup> The actions of the audience in this case are seen as aesthetic disobedience to Neufeld as they violate the norms of performance practice and audience/performer relations. Neufeld specifies that they violate two important norms which “govern the space of classical music concerts,”<sup>40</sup> the first being the expected silence of audience members (violated by booing). The second is physical: the audience member breaching the space of the stage, which is reserved, in classical music performance tradition, as a space for the performers and not

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38 Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 120.

39 Ibid.

40 Ibid.

the audience.<sup>41</sup> So the audience member in this instance “claimed the mantle of performer... They, too, could be authoritative speakers in the space of the theater. In standing and arguing and then climbing onto stage, they restructured the space of aesthetic appreciation while drawing attention to and criticizing aspects of that very space.”<sup>42</sup> In other words, the audience enters the process of aesthetic creation, by forcing themselves, disobediently, into the spaces where art-making occurs. The very process of the audience entering this space is disobedient, on top of which they begin altering the aesthetic meaning of the performance.

This raises the question of how the audience plays into the release of *No Love Deep Web*. Some might argue that Death Grips' audiences are aesthetically disobedient. Not because they “claim the mantle of the performer,” but because they “claim the mantle of the institution,” which would normally disseminate the work. Here, we combine two of Neufeld's concepts. The first is that aesthetic disobedience can refer not only to aesthetic acts, but to forms of disobedience which challenge the norms of artworld institutions. The second is that audience members can be aesthetically disobedient. If we revisit the example from the last chapter involving Danger Mouse and “Grey Tuesday” where a number of fans engaged in mass consumer disobedience by illegally copying and sharing a work of art, we can see a similar form of audiences engaging in aesthetically disobedient acts. By sharing copyrighted material without permission, the audiences of Danger Mouse and Death Grips challenge the norms of the artworld institutions that normally govern album distribution. Therefore, we can extend Neufeld's concepts of

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41 Jonathan A. Neufeld, 2015. Aesthetic disobedience. *The Journal of Aesthetics and Art Criticism* 73 (2), 120.

42 Ibid.



aesthetic disobedient audiences to the users who challenged the norms of art dissemination.

What is interesting about this extension, however, is that in committing the original disobedient act of leaking their own album, Death Grips absolves their audience of this disobedience. The disobedient act of an audience engaged in file sharing is that they are sharing files in opposition to copyright restrictions that make such sharing and copying illegal. To refer back to the structures of netlabels from chapter three, the sharing of music for free and allowing it to be copied and shared further under Creative Commons licensing is routine in those contexts. Death Grips, in liberating their creative products from Epic's control, become the disobedient party, and since they shared their music through platforms such as their Facebook and Twitter pages, fans may be under the impression (some were) that this free release was not illicit. Epic, or the RIAA, would therefore, although legally justified, not logically be able to go after the thousands of fans who downloaded, copied, shared, and listened to *No Love Deep Web*. They would instead have to focus their efforts on the disobedience of Death Grips, and indeed they did. Just as Robin Hood was the target of The Sheriff of Nottingham rather than the poor to whom he gave stolen riches, Death Grips were the focus of the label, their legal team, and the RIAA rather than the fans given Epic's "riches."<sup>43</sup>

In many ways, the legal and civil disobedience are what distinguish Death Grips from other aesthetically disobedient musicians. Other musicians engage in aesthetic disobedience by challenging the norms of music making, but very few challenge the broader institutional structures of the music industries. Groups that were initially praised

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<sup>43</sup> Marshall, Lee. 2002. Metallica and morality: The rhetorical battleground of the napster wars. *Entertainment Law* 1 (1), 15.

for their aesthetic disobedience, like the punk groups mentioned above, are often unwilling to engage in significant civil disobedience, at least not on the scale of Death Grips' release of *No Love Deep Web*. Often groups get incorporated into the economic and authoritative structures of the music industry by signing contracts, entering new kinds of relationships and commitments, and becoming subject to new obligations, which are legal, contractual, and economic in nature. These obligations are more costly to disobey, which is why Death Grips' disobedience is so fascinating. In the next section I look into norms and institutions that Death Grips entered by signing a recording contract and the ways in which they disobeyed those norms by releasing *No Love Deep Web*. To understand those contexts, the recording contract as an artifact and as a codification of a relationship between Death Grips and Epic must be explored.

### 4.3 Legal Contexts, Contractarianism, and “Property in the Person”

To fully understand the importance of their disobedience, we must look at the social context of the recording contract, especially since, for a labour contract, it occupies a very unique position in society, public opinion, and law. Matt Stahl frames the recording contract as being a highly prized contract, unlike nearly any other contract that a person might sign in their lifetime. He writes:

From renting apartments to buying groceries, people engage in contracting behaviour every day, but few contracts have as privileged a place in popular discourse and culture as the recording contract. To many popular music performers, the major label recording contract is a symbol and instrument of

a very rare kind of achievement: the assumption of a public, professional position in the music industry, with fame, wealth, and freedom as the principal rewards... since *American Idol's*... debut, tens of thousands of young people have lined up to audition for a chance to compete for that golden ticket.<sup>44</sup>

In other words, a recording contract like the one Death Grips signed with Epic differs from most employment contracts insofar as it is viewed as a prize to be won, a coveted position in the capitalist labour market. The reason this position is so coveted is, as Stahl further explains, “signed and established recording artists in the mass media often represent an apex of individual self-determination, artistic expression and self-realization, a point at which boundaries between work and life are erased in a positive, liberating way.”<sup>45</sup> Death Grips, as “signed” and to a certain extent “established” recording artists, appear to overcome the alienation of regular employment. If the boundaries between work and life are erased, then an artist would no longer need to alienate any part of themselves or their labour power in exchange for capital to survive. If the popular narrative of the recording contract is to be believed, Death Grips can continue to engage in individual self-determination, artistic expression and self-realization and get paid for it in both economic capital (wealth) and social capital (fame).

Death Grips therefore not only engaged in a labour contract dispute but also a social and discursive dissonance. Their recording contract is viewed as a “golden ticket,” something that people compete and struggle for in a way (on television shows such as

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<sup>44</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 105.

<sup>45</sup> *Ibid.*, 106.

*American Idol*, *The Voice*, or *X-Factor* as part of a contest, for instance) that is unique to recording contracts. By being signed to Epic, according to Stahl and others, Death Grips can be seen as having earned a “rare kind of achievement” which comes with “fame, wealth, and freedom.” By disobeying the terms outlined in their contract, the group is rejecting a highly prized position in the realm of this discourse. How could a position that offers “wealth, fame, and freedom” be so unfree and restricting that Death Grips would be willing to disobey and risk being ejected from that position (which they ultimately were)? The answer to this is that the popular discourse of recording contracts as a special kind of labour contract is inaccurate. The reality of recording contracts is that they are not only just as restrictive and alienating as more typical labour contracts, but in some cases they are exceptionally constraining for employees. What makes recording contracts distinct is the power imbalance between employer and employee. In California, where both Epic and Death Grips are located, this is especially relevant and their state laws historically have been grounds for a number of very significant labour and contract disputes regarding recording artists and their contracts with labels.

While the space I have here prevents me from going into a deep history of labour laws and recording contracts, it is important to outline key contractual terms found in recording contracts. Also, there are a few important moments in California law that are important to outline to contextualize Death Grips and their disobedience. Central here is what is called the “seven-year rule” (Section 2855 of the California labour code<sup>46</sup>) and the passing of Senate Bill 1049 (SB 1049) which is an amendment to the seven-year rule specific to recording artists.

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<sup>46</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 126.

Recording contracts are normally signed based on “deliverables,” a term which, as I defined in my first chapter, normally refers to complete albums or recordings which the label can put into the marketplace. Three more important terms that Stahl highlights are “exclusivity,” “assignment,” and “duration.” According to Stahl, “Through 'exclusivity' the artist alienates [their] right to offer [their] recording services to anyone else for the duration of the contract.”<sup>47</sup> In the case of Death Grips, this would mean that under their contract with Epic, they could not offer their recording services to anyone else. The release of *No Love Deep Web* very likely would have violated exclusivity terms in Death Grips contract. By releasing their album online through Third Worlds, Death Grips were “offering their recording services” to another label. Further, exclusivity extends to the IP rights of their recorded output. “Assignment” “Refers to the transferability of the contract [allowing] a company to sell the contract to another company.”<sup>48</sup> This further alienates the recording artist from their ability to choose who they record for. It is likely there was an assignment clause in Death Grips’ contract which would have allowed Epic to sell their contract to another recording company; this may have even occurred when Death Grips signed with Harvest after having been dropped from Epic. Finally, “‘duration’ determines the length of time for which the contract may alienate these aspects of control of one's labour.”<sup>49</sup> Again using the example of Death Grips and Epic, the group was contractually obligated to remain with Epic past the point of releasing *No Love Deep Web*, which is in part why the company was able to tell Death Grips that they were going to delay the release of the album. Although Death Grips

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<sup>47</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 113.

<sup>48</sup> *Ibid.*, 113-114.

<sup>49</sup> *Ibid.*, 114

wanted to release it in October of 2012 (and they eventually did), Epic had the power, through their contract, to hold the group's album until next year as originally planned.<sup>50</sup> Part of what determines a contract's duration are its "options" or "option periods." A typical recording contract covers the production and marketing of an album. If that album is successful, or the label believes that future albums may be successful, they can request further options (usually four to six) that an artist would then be required to deliver.<sup>51</sup> Under normal circumstances where a group would not purposefully violate their contract, the duration in which they originally agreed to would be upheld. This duration, since it relies mostly on options, can extend for years, much longer than typical employment contracts. Duration of contracts is central to debates over recording contracts, which I will outline below.

The seven-year rule is a law that "since 1872 has limited the length of time during which contracts of employment (such as a recording contract) may be enforced."<sup>52</sup> In the late 1980s, recording artists lost the protection of the seven-year rule when Senate Bill (SB) 1049 was passed forcing them to remain in their contract if they had not delivered on all of their options, even if seven years had passed since originally signing their recording contract.<sup>53</sup> Throughout the years, a number of debates have taken place over this decision. For the purpose of space I will not cover in depth the arguments of these hearings, but I will outline some of the main objections to the bill that artists and their

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<sup>50</sup> Christopher Weingarten, "Artist of the Year: Death Grips." (*Spin*. November 20, 2012), 4. Accessed October 10, 2015.

<sup>51</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 114.

<sup>52</sup> *Ibid.*, 109.

<sup>53</sup> *Ibid.*, 127.

representatives brought forward as they are relevant to the discussion of Death Grips and their contract.

The main concern raised by the musicians and their allies was that SB 1049 made recording artists vulnerable to “civil slavery or indenture”<sup>54</sup> due to the fact that they could not easily leave their contracts. This manifested and was enforced in a few ways. First, artists argued that the big record companies “have a concentrated control of the market for artists' labour.”<sup>55</sup> This allowed a very small amount of labels to exercise monopolistic control so that if an artist left one label, their other options were limited, as this “concentration of hiring power enables the record labels to impose a 'standard contract’”<sup>56</sup> which means that even if artists could move their labour from one major label to another, the concentration of power among the few major labels means that they could not find a label that didn't offer standard contracts – meaning that their “choice” between labels is hardly a choice, as they are all so similar.

The main arguments against reinstating recording artists under the seven-year rule take form in a line of contractarian thinking. “Contractarianism” is a term provided by Carole Pateman in her book *The Sexual Contract*. Contractarianism is a strain of thought which argues from the “standpoint of the contract.”<sup>57</sup> Pateman raises issues with contractarianism from a feminist political theory standpoint and by the lack of limits which can be placed on contracts. She writes that in a contract world “no limits can be

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<sup>54</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 151.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid., 152.

<sup>57</sup> Pateman, Carole. *The Sexual Contract*. (Stanford, Calif.: Stanford University Press, 1988), 23.

placed on contract and contractual relations; even the ultimate form of civil subordination, the slave contract, is legitimate. A civil slave contract is not significantly different from any other contract.”<sup>58</sup> In other words, according to contractarianism, if both parties agree to sign a contract, that contract can include even the most extreme forms of domination and alienation. Contractarianism is rooted in the concept that there is “property in the person” which is a “political fiction” built on the notion that each person “has a property in [their] own person.” Contractarianism is built on the notion that we can alienate pieces of this property – labour for wage, for instance.<sup>59</sup> However, since labour is not a “thing,” a worker must be physically present to provide their labour, so they are not just alienating their knowledge, labour, and skill. It therefore is not a simple exchange; it is a labourer providing their mental and physical presence under command of their employer.<sup>60</sup> Much of neo-liberal thought is built on the concept of “property in the person” and contractarianism takes it to its logical end where any form of domination or alienation is allowed as long as both parties consent.

Pateman is also critical of contractarianism in *The Sexual Contract* and other writings,<sup>61</sup> stating “contractarians justify slavery or what I [call] civil slavery.”<sup>62</sup> Her critique of contractarianism provides a valuable framework for understanding the rebellion of Death Grips within the context of recording contract disputes. Stahl also

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58 Pateman, Carole. *The Sexual Contract*. (Stanford, Calif.: Stanford University Press, 1988), 24

59 Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 178.

60 Carole Pateman, "Self-Ownership and Property in the Person: Democratization and a Tale of Two Concepts." *Journal of Political Philosophy*, 33.

61 *Ibid.*, 21.

62 *Ibid.*, 29.



recognizes the importance of this framework and has provided analysis of the recording contract through contractarianism.

It is through contractarianism that representatives of major labels and the RIAA argued for exempting recording artists from the seven-year rule. In the 2001 hearings outlined above, Courtney Love argued that her contract was “slavery,”<sup>63</sup> which is not uncommon language; artists such as Prince<sup>64</sup> and Grimes<sup>65</sup> have made similar comparisons. However, the response to this from lawmakers was that “People that enter into a contract usually do so voluntarily, each side thinking they're going to get a benefit out of that,” and “[the seven year rule was] originally protection against indentured servitude for a time when that was a serious problem. [At] this time [it] is not as serious a problem, and the kind of servitude we're talking about is usually fairly well compensated. I've talked to some folks and said 'if this is indentured servitude then send me the money' because I'll take it.”<sup>66</sup> These comments are examples of contractarianism, as the lawmaker (in this case Senator Ray Haynes) is essentially in support of civil slavery (“indentured servitude,” to use his language) so long as it's “fairly well compensated”. For Hayes and other contractarians, civil slavery is justified. To quote again from Pateman:

“[c]ontractarians argue that any limitation on the right of an owner to alienate the property in his person is unwarranted, an illegitimate curtailment of autonomy. The

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63 Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 144.

64 Daniel Kreps, “Prince Warns Young Artists: Record Contracts Are 'Slavery'” (*Rolling Stone* August 9, 2015). Accessed September 23, 2015.

65 Larry Bartleet, “Grimes on Kesha contract: 'It's basically like slavery'” (*NME* February 27, 2016). Accessed February 29, 2016.

66 Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 158.

prohibition of life-time employment contracts is unjustified.”<sup>67</sup> This would include duration on a recording contract. According to contractarianism, the removal of recording artists from protection under the seven-year rule is completely legitimate, as they could have simply said “no” to signing the contract. The language of autonomy in the debate over the seven year rule and SB 1049 mainly applied to signing of the recording contract; any debate of autonomy after that to a contractarian is irrelevant because both parties signed the contract, so even if one party surrendered all autonomy to the other for an unlimited amount of time, there can be no injustice in how the ruling party treats or controls the subservient party as they agreed to sign the contract in the first place.

#### 4.4 Death Grips' Disobedience as Employees

I would now like to shift focus back to the events surrounding the release of *No Love Deep Web*. In other chapters I have gone into detail surrounding the ways in which Death Grips released the album. I would like to expand upon further on Death Grips' actions directly after the illicit release of the album as they relate to the legal and contractarian framework I have outlined above and how they provide further knowledge of Death Grips' contractual obligations. In particular I am referring to the leaking of emails – and the content of those emails – from Epic to Death Grips in the days following the release of *No Love Deep Web*.

After the release of *No Love Deep Web*, many observers and fans were left unsure about the status of the album. Many fans and journalists were trying to piece together information and determine whether the album had been released legally or illegally. Many also speculated about whether the band had done this in conjunction with Epic as a

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<sup>67</sup> Carole Pateman, "Self-Ownership and Property in the Person: Democratization and a Tale of Two Concepts." *Journal of Political Philosophy*, 29.

media stunt. The band had not said much publicly beyond a series of social media posts which read “The label wouldn't confirm a release date for NO LOVE DEEP WEB 'till next year sometime”<sup>68</sup> as well as “The label will be hearing the album for the first time with you.”<sup>69</sup> As fans of the group, the music media, and observers were all trying to get details about the album, many began to speculate about whether the early release was a publicity stunt done in tandem with Epic. The music blog *Stereogum* ran a piece titled “Deconstructing: Death Grips’ NO LOVE DEEP WEB: Act Of Rebellion Or Publicity Stunt?”<sup>70</sup> attempting to determine whether or not the band had acted with permission from their label. Shortly after these questions were raised by music media, Death Grips released more property of Epic, this time in the form of emails from Heath Kudler, Epic's Senior Vice President of Business and Legal Affairs. The releasing of these emails was, again, without permission of Epic, a way of trying to prove they were not acting in cahoots with their label. Or, as they put it, they “got sick of hearing about this marketing shit, [it was] annoying,”<sup>71</sup> implying they were tired of the accusation that leaking the album was all a marketing stunt.

The emails, which were posted to Facebook as image files along with the caption “HAHAHAHAHAHAHA NOW FUCK OFF” (Again referring to the accusations they were collaborating with Epic on the release), provide us with an interesting view into the contractarian language used by Epic. The emails in part read

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<sup>68</sup> Evan Minsker, “Listen to Death Grips' Album *NO LOVE DEEP WEB* Now, Check Out the Extremely Graphic Cover Art (*Pitchfork* October 1, 2012) Accessed February 28, 2016.

<sup>69</sup> Ibid.

<sup>70</sup> Joseph Schafer, “Deconstructing: Death Grips' *NO LOVE DEEP WEB*: Act Of Rebellion Or Publicity Stunt?” (*Stereogum* October 3, 2012) Accessed February 20, 2016.

<sup>71</sup> Jenn Pelly, “Death Grips Post *NO LOVE DEEP WEB* Infringement Letter From Epic Records on Facebook” (*Pitchfork* October 31, 2012). Accessed February 16, 2016.

Epic is extremely upset and disappointed that [Death Grips] decided to release [*No Love Deep Web*] without Epic's knowledge or involvement. As you know, [Death Grips] has not only blatantly breached a number of provisions in the applicable recording agreement, it has also wilfully infringed Epic's copyright rights with respect to these masters. Equally important, without provocation, [Death Grips] has made false and disparaging statements on various websites about Epic. All this, despite the fact that Epic has done nothing except wholeheartedly support the band, even though theband [sic] has made certain decisions that have financially damaged Epic.<sup>72</sup>

This email appears to demonstrate that Death Grips was in violation of their contract and that Epic likely was not involved with the release of the album as a “publicity stunt”. If they were, they would not have sent this email or released Death Grips from their label a few days later (a surprisingly quick decision). The email also read, “Given the situation in which Epic finds itself, please immediately pull the album from all websites on which it is currently being distributed. In addition, please promptly provide the masters (which Epic owns) to us. Once we have cleared [any samples used in] the tracks, we intend to quickly put the album up for sale.” In this email Epic reminds the group that they do not in fact own their album. In signing their recording contract, Death Grips alienated their creative intellectual property to the label. Referencing back to the previous chapter, this further solidifies the importance of Death Grips’ use of Creative Commons licensing. Although they switched licenses (perhaps as a result of this email), part of the reason the

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<sup>72</sup> Jenn Pelly, “Death Grips Post *NO LOVE DEEP WEB* Infringement Letter From Epic Records on Facebook” (*Pitchfork* October 31, 2012). Accessed February 16, 2016.

original license was used, as I mentioned, was to reclaim or decolonize their property from Epic.

The email goes on to say “This album will not count towards the Recording Commitment. As I am sure you understand, Epic will not be pay [sic] for an album that thousands of people have already downloaded. Any royalties on sales will be accounted and paid pursuant to the terms of the recording agreement.”<sup>73</sup> In other words, *No Love Deep Web* did not count as a deliverable that would bring Death Grips closer to the end of their contract. Had Death Grips not been released from their contract a few days after they released these emails to the public, it would have been completely within Epic's right to hold Death Grips in their recording contract despite the leaking of *No Love Deep Web*.

A contractarian may argue at this point that if Death Grips had released *No Love Deep Web* with permission of Epic by waiting until the following year (permission which Epic could have then postponed for any length of time), it would have counted as a deliverable on their contract. Death Grips could have gone on to release more albums and likely could have been released from their contract within a few years. In fact, since *No Love Deep Web* was released the band has already released two more studio albums (*Government Plates* and *the powers that b*, which was a double album) and an album of instrumentals (*Fashion Week*). If they had split the double album into two releases it is entirely possible that they could have delivered five albums since signing with Epic, which may have been enough to either renegotiate with the label or even leave their contract altogether if they delivered on all their optioned albums in their contract. While

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<sup>73</sup> Jenn Pelly, “Death Grips Post *NO LOVE DEEP WEB* Infringement Letter From Epic Records on Facebook” (*Pitchfork* October 31, 2012). Accessed February 16, 2016.

some patience indeed could have resulted in a situation in which Death Grips did not face the consequences Epic threatened in their email to them, it relies entirely on contractarianism. To a contractarian, Death Grips signed away any autonomy over their labour power and how their creative property is released (or not released) in the original contract; no matter how dissatisfied Death Grips became with Epic, after the contract was signed, they had no choice but to comply.

While the difference between Death Grips releasing *No Love Deep Web* with permission and without permission may have only been a few months (assuming Epic was sincere in their promise to release the album “sometime next year”<sup>74</sup>) it bears a striking resemblance to Stahl's interpretation of recording artists' arguments for reinstating seven-year rule protection: “seven years plus one day equals slavery,” that is, “if a seven-year relationship becomes unconscionable at seven years plus one day, then what does that say about the nature of the relationship? If it can go from legitimate to unconscionable in one day, could that relationship ever really have been conscionable in the first place?”<sup>75</sup> In other words, there is no clear distinction between the seventh year anniversary of an employment contract and the next day; however, according to the arguments surrounding the seven-year rule, one day could be a normal working contract and the next, civil slavery. From here Stahl draws on Pateman's commentary on the “property in the person.”

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74 Gwendolyne “Death Grips stick their cock in the eye of sony music, release their new album for free, let anyone make money with it, then change their mind about it.” (*Amour and Discipline*. November 1, 2012) Accessed June 20,2015.

75 Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 177.

What this points to, according to both Stahl and Pateman, is that “the boundary between free and unfree labor is shifting and permeable.”<sup>76</sup> Recording artists like Death Grips may have more freedom under their contracts than a wage labourer who is forced to be at a work place at specific times to perform specific duties under the watch and control of a manager or similar authority. Death Grips had more autonomy than that; they were given a financial advance with which they could go and record at any time of day, in any studio, and make artistic decisions without a manager bossing them around. This form of labour is unique because rather than alienating themselves, or their labour, as contractarians would say, they were alienating the product of their labour (the album) and the alienation of their labour and their selves was masked. They could decide so many aspects of their labour process and were provided with an advance which provided them with more economic autonomy than they had on their own, which may give the appearance that they were actually less restricted than the average worker. This differs from Pateman's description of a typical labourer and how they alienate themselves. “A worker cannot send along capacities or services by themselves to an employer. The worker has to be present in the workplace if the capacities are to be “employed,” to be put to use. A disembodied piece of property is not what is required. The employer must also have access to the knowledge, skills and experience of the worker if the capacities are to be used as the employer desires. In short, employers hire persons not a piece of property.”<sup>77</sup> Pateman here is referring to more typical jobs where an employee might be expected to show up at an office and provide their labour for a period of time. In that

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<sup>76</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 177.

<sup>77</sup> Carole Pateman, "Self-Ownership and Property in the Person: Democratization and a Tale of Two Concepts." *Journal of Political Philosophy*, 33.

case, the worker cannot separate their labour from their body, and so while contractarian thought suggests labour power, knowledge, skills and experience can be alienated, they cannot and the worker is required to be present. This differed from Death Grips' labour, as they are, in a sense, "sending along services" or rather products of their labour. The band had been creating music for free on their own time before signing their contract and continued to do so after signing; so for them, the only difference may have been that they were being paid for that service. While Death Grips' experience of work differs from the typical experience of work, the notion of "employers hire persons not a piece of property" is important to hold on to.

What is seen in the case of *No Love Deep Web* is that while Epic was not acting as a manager, insofar as they had a physical presence watching over all of the recording process, they could still exercise their right as such by limiting what Death Grips did with the product of their labour. The release of *No Love Deep Web* therefore underscores the ambiguity in the free/unfree nature of their contract with Epic. Stahl elaborates on how recording contracts represent the power of the label over the artist:

[the recording contract] gives the record company the power to command and [take] away – civilly and consensually – the recording artist's power [to] freely... say no without penalty. Compared to its routine continuous, grinding, operation in other workplaces, this power usually tends to operate more intermittently, with relative gentleness and at a relative distance. But when record companies finally stop cheerleading, advising, and counselling and start commanding, their actions can strike artists as coercive.<sup>78</sup>

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<sup>78</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 178.



In other words, the contract which Death Grips initially signed with Epic was a token that Epic could eventually cash in when they needed or wanted to restrict what Death Grips was able to do. As seen in earlier chapters, the initial language from both parties over their contract expressed that Epic would interfere as little as possible, or not at all. According to Hill, “it became very apparent that these people [Epic] really understood what we were doing and to not mess with it. They generally believed in this as something that was different.”<sup>79</sup> Similarly, Angela Cob-Baehler, who was Epic's executive Vice President of marketing and who headed the A&R effort for Death Grips, said of the signing, “We saw eye to eye in a sense of saying, 'Let's just do this. Let's not get caught up in record sales or money-let's just do this because we love music and we want to shake things up.’”<sup>80</sup> However, like with many recording artists, this language was also a hook to secure the rights and labour of the group to capitalize on. What Death Grips' disobedience does, then, is force Epic to put their money where their mouth is, so to speak.

If the language of executives like Cob-Baehler was a true reflection of their position and they were not “caught up in record sales or money” then the release of *No Love Deep Web* should not have posed a problem for the label. Clearly, the language was used either as a way to entice the band into signing away their rights, or there were limits as to how much Death Grips could interfere with the profits of Epic. It certainly would seem as though one of the primary reasons that Epic dropped Death Grips was because they “financially damaged Epic,” to use their own legal language, but certainly a major

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<sup>79</sup> Steven J. Horowitz, “Death Grips Talk Epic Record Deal & New Music” (*Billboard* April 23, 2012) Accessed February 15, 2016.

<sup>80</sup> Ibid.

aspect of Death Grips' release was because they were unwilling to work within the framework of “property in the person”.

The executives at Epic who signed Death Grips were operating under the premises that they could alienate certain aspects of Death Grips' artistic labour. An article from *Billboard* describes the circumstances of the meeting in which Death Grips signed their contract as such: “In October, after a courtship by several labels following the mixtape release, Death Grips ventured to Sony's Los Angeles headquarters. There, MC Ride tagged the company's bathroom with graffiti before the meeting, demonstrating a sense of rebellion that sold executives on the threesome.”<sup>81</sup> (The story of MC Ride tagging the bathroom is retold in interviews with *The Source*<sup>82</sup>, *The Skinny*<sup>83</sup>, *Spin*,<sup>84</sup> and elsewhere.) If it had been the groups' rebellion that convinced Epic to sign them, then what was it about their eventual rebellion from the label that came as a surprise? It is much more likely that Epic saw an opportunity in Death Grips to harness the group's property and cultural capital as rebels for profit, and when the contract was finalized they were under the impression that they could control the group.

The irony of consuming rebellious musical groups into the capitalist system is not uncommon in the recording industry, as shown above with various punk and hip-hop acts, but it also predates both genres. As Keightley writes, “One of the great ironies of the

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81 Steven J. Horowitz, “Death Grips Talk Epic Record Deal & New Music” (*Billboard* April 23, 2012) Accessed February 15, 2016.

82 Sean Lynch, “Death Grips Aspire To Be The Beatles Of Rap.” (*The Source*. March 16, 2012). Accessed October 20, 2015.

83 Brian E. Gieban, “Death Grips: 'There is a lot of Destruction and Recycling in Our Music'” (*The Skinny* May 2, 2012). Accessed October 20, 2015.

84 Christopher R. Weingarten, “Death Grips on Signing to the Majors, Using Simon Cowell's Printer.” (*Spin* April 13, 2012) Accessed February 20, 2016.

second half of the twentieth century is that while rock has involved millions of people buying a mass-marketed, standardized commodity (CD, cassette, LP) that is available virtually everywhere, these purchases have produced intense feelings of freedom, rebellion, marginality, proportionality, uniqueness and authenticity.<sup>85</sup> In the understanding of Epic, they were “renting” Death Grips' persons and personas in the same way major labels had during much of the second half of the twentieth century, which could be used to their will in the creation of records for sale. We know this is not the case, but is built on the myth of “property in the person.” When Epic attempted to exercise their command over Death Grips and their rebelliousness, telling them to wait on releasing their album, Death Grips instead refused to be controlled. The group was under the impression that their labour was not being rented to Epic; they could not simply alienate one aspect of their artistic labour as “property in the person” would lead us to believe is possible. Since the same rebellious nature that caused MC Ride to damage the bathroom at Epic is what compelled Death Grips to go against their contractual agreements, it was foolish of Epic to think they could rent out that (and other) part of the group and control it using contractual tools. However, that is what highlights the dissonance between the concept of “property in the person” and its reality.

The fiction of “property in the person” is not unique to labels and economic institutions who hire labour. Artists can also be bound to this fiction, which often hinders their ability to properly argue for their own autonomy. Stahl notes this in his critique of the “seven year plus one day” concept that he argues characterized recording artist arguments to restore the seven-year rule:

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<sup>85</sup> Keir Keightley, “Reconsidering Rock” in *Cambridge Companion to Pop and Rock* (New York: Cambridge University Press), 109.

The artists' claim of civil slavery and indentured servitude, while appearing outrageous, actually point to their real problem, the same problem that all employees face: The political fiction that legitimizes their domination.

However, because artists place such a high value on their contracts with record companies (which involve the political fiction), they cannot or do not pursue the strongest arguments against their civil slavery and indentured servitude. They embrace the political fiction in order to accept the contract.<sup>86</sup>

To reiterate, part of the reason “property in the person” is so effective as a fiction is because both parties agree and submit to it. This generally causes much more damage for the subservient party, in this case recording artists, than it does for the dominant party, the labels. Death Grips not only does not accept the fiction, they also do not place a high value on their recording contract, as they were willing to act against it as soon as the label tried to enforce their contractually ensured dominance over the group.

For Death Grips, this disregard of “property in the person” can provide them with a heightened bargaining power when entering new contract negotiations, or it could put them entirely out of the running for a new contract. If the other party has knowledge of Death Grips’ disobedience, they then are aware that by contracting Death Grips they cannot simply contract pieces of the “property” within Death Grips. They contract the group knowing that their disobedience and rebellious nature probably cannot be segmented, rented, and controlled. The band might act in accordance to their own motivations, and the label can either work as partners with the group or see their contract violated in the way it was with Epic. This does not necessarily mean that the parties now

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<sup>86</sup> Matt Stahl, *Unfree Masters: Recording Artists and the Politics of Work*. (Durham, NC: Duke University Press, 2013), 180.

enter the bargaining phase on equal footing; the label still has a great deal more capital than Death Grips and could enforce their contracts with greater legal rigor than the group could, but it is nonetheless a surprising outcome of the band's violation of their recording contract.

Since the release of *No Love Deep Web*, it would seem as though Death Grips has learned more about how the recording industry functions and how to maintain autonomy within it. Before signing their deal with Harvest, they officially incorporated their label Third Worlds.<sup>87</sup> This could mean that the relationship between Death Grips and Harvest is not one of employee/employer or band/label, but instead a deal of label/label, or label/distributor. If this is the case then Death Grips becomes significantly less vulnerable to control over their IP or label by Harvest. This allows Death Grips to maintain control over their actions and property in a way that many recording artists who engage in rebellious behavior were not able to do as they remain employees of their label. For instance one of the groups releases since incorporating and partnering with Harvest, *Fashion Week*, was released only through Third Worlds and not through Harvest, suggesting that the deal between the two does not include exclusivity clauses present in almost all artists' recording contracts. This is not to say that the group has simply changed from employees to employers and joined the capitalists. Since the release of *No Love Deep Web*, Death Grips has continued to go to any length to control their labour and IP including, but not limited to, staging a fake break-up to get out of a tour with the band

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<sup>87</sup> Jenn Pelly, "Death Grips Launch New Label Thirdworlds" (*Pitchfork* July 9, 2013) Accessed February 22, 2016.

Nine Inch Nails,<sup>88</sup> or not showing up to scheduled shows without any notice.<sup>89</sup> This behaviour would suggest that Death Grips remains uninterested in wealth or fame but instead are only motivated by their own desires and will continue to act in a way that reflects that. Whether that means engaging in certain aspects of business or capitalism seems to be of little-to-no concern for them.

## 4.5 Conclusions

When the group Negativland was faced with legal pressure from a major label over their sample of the band U2, they released a press release that read, “preferring retreat to total annihilation Negativland and [their label] had no choice but to comply with these demands.”<sup>90</sup> For many artists who face problems with their record labels over copyright or labour issues, their choices are “retreat”, sometimes resulting in them either bending to the will of the label and fulfilling a contract which the artist objects to, being unable to release a recording that they have completed, or even never recording again. The other “option” according to Negativland is “total annihilation,” meaning being taken to court by a label who has the resources to either force submission by dragging out the trial and forcing the artist to drain their finances into legal fees, or, if they are unsuccessful in their court case, a group might see wage garnishments to pay the label back for damages on undelivered material. What the case of *No Love Deep Web* reveals is that the above options of bending to the will of your record label or facing dire economic consequences is, today, in the context of the Internet and digitalized recording industry, a

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<sup>88</sup> Evan Minsker, “Death Grips Break Up” (*Pitchfork* July 2, 2014). Accessed February 29, 2016.

<sup>89</sup> Evan Minsker, “Death Grips Not Playing Lollapalooza, Didn't Show Up to Their Aftershow, Fans Destroy Band's Equipment” (*Pitchfork* August 3, 2013) Accessed February 23, 2016.

<sup>90</sup> Kembrew McLeod, *Freedom of Expression®: Overzealous Copyright Bozos and Other Enemies of Creativity*. (New York: Doubleday, 2005), 116.

false dichotomy. Death Grips did not agree to the will of their employers, nor did they face a lengthy, expensive lawsuit. This opens up a potential avenue of action for musicians to take, especially in the digital era where music can be distributed widely without going through major label production and distribution channels. The actions Death Grips took in releasing *No Love Deep Web* not only represent both civil and aesthetic disobedience, they also poke holes in the fictions of “property in the person” and as recording artists as completely autonomous labourers.

The actions of Death Grips could potentially be an example to follow for other artists who are finding themselves alienated by restrictive recording contracts, leading artists and labels to reconsider the ways in which their partnerships are structured and maintained, or whether their partnerships are necessary at all.

## Chapter 5

### 5 Conclusion

Since the illicit release of *No Love Deep Web*, Death Grips has remained active as a group and has since released four more recordings: two studio albums, *Government Plates* (which featured music videos for each track), and *the powers that b* (a double disk) as well as two instrumental releases, *Fashion Week* and *Interview 2016*. With the exception of the second disk of *the powers that b* (known as *Jenny Death*<sup>1</sup>) all of these releases were unannounced and available immediately for free download. As of early 2016, the group is promoting a new record known as *Bottomless Pit* which has yet to be released (although the album art and track lists have been made available<sup>2</sup>). All of these releases have been released through Third Worlds, and all but *Fashion Week* were released through Third Worlds/Harvest. While the incorporation of Third Worlds and the continued release of recorded material may make it seem as though the band is being incorporated into the capitalist mode of record production, the group maintains a willingness to disregard obligations they do not wish to fulfill. Very soon after the group was released from Epic, they once again dropped out of a number of tour dates where they were scheduled to perform.<sup>3</sup> At one of these dates the group, instead of performing, simply set up a child's drum set in front of a back drop that appeared to be a suicide note

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1 Scott Lapatine, "Download Death Grips' 'Niggas On The Moon' Feat. Björk, Half Of A New Album *The Powers That B*" (*Stereogum* June 9, 2014) Accessed March 1, 2016.

2 Alex Young, "Death Grips share tracklist, artwork for new album *Bottomless Pit*" (*Consequence of Sound* March 18, 2016) Accessed March 20, 2016.

3 Evan Minsker, "Death Grips Not Playing Lollapalooza, Didn't Show Up to Their Aftershow, Fans Destroy Band's Equipment" (*Pitchfork* August 3, 2013) Accessed February 23, 2016.



from a fan.<sup>4</sup> The band then, a week before they were scheduled to go on tour opening for the bands Nine Inch Nails and Soundgarden, announced they were breaking up and would not be appearing on the tour.<sup>5</sup> Since announcing their break up, the group has gotten back together, gone on an international tour, and released more music. What these actions seem to suggest is that the band are interested only in maintaining autonomy over their music, its distribution, and their labour. While they may sign new contracts (like their deal with Harvest) or engage in capitalist behaviour such as incorporating their label, Third Worlds, the band appears to do so only to maintain control. In the words of Zach Hill, “we, [Death Grips,] needed to put ourselves back where we had total control over what we were doing.”<sup>6</sup> It is this maintaining of control over their work despite signing much of it away in their recording contract, that initially motivated this research and my interest in the band. In this thesis I have examined the means and actions the group took to maintain this control, including signing and violating their recording contract with Epic.

Throughout this thesis I have analyzed and conceptualized the illicit release of the album *No Love Deep Web* by the group Death Grips. I have done this from a number of perspectives focusing on the release of the album as an act of disobedience as well as its use of technology and the Internet to disobey in ways not possible in a pre-digital era. I have used frameworks provided by David Hesmondhalgh, Patrick Galuszka, Patrick Burkart, Kostas Kasaras, Carole Pateman, and Matt Stahl. Through these frameworks and

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4 Evan Minsker, “Death Grips Not Playing Lollapalooza, Didn't Show Up to Their Aftershow, Fans Destroy Band's Equipment” (*Pitchfork* August 3, 2013) Accessed February 23, 2016.

5 Evan Minsker, “Death Grips Break Up” (*Pitchfork* July 2, 2014). Accessed February 29, 2016.

6 Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

using Death Grips as a case study, I have been able to examine the relationships of musicians to their IP as well as their labour in a post-Internet era. In doing this, I pointed to ways in which Death Grips were able to move within the industry while maintaining autonomy in their work and control over their music and its distribution before ultimately taking advantage of the resources available to them to free themselves from an employment contract with Epic records.

In my second chapter, I looked at the ways both independent and major labels are changing due to digitization and the Internet and how each are (attempting to) adapt to the change. Through this analysis I contextualized the actions of Death Grips and how they compare to pre-Internet industry norms and post-Internet industry norms. I argue that while Death Grips' tendency to release their music for free contradicts pre-Internet norms in both major label and independent label contexts, their actions are in line with post-Internet independent label behaviour (which is expanded on in my third chapter where I analyze netlabels). Further, Death Grips were able to instigate changes *within* Epic Records, such as convincing the label to make a deal with BitTorrent, which reflects independent label norms more than major label norms.

In my third chapter I began an analysis of Death Grips' deal with Epic and how their relationship can be viewed from the perspective of labour and from a perspective of IP. In this chapter, I focused on Death Grips' relationship with their IP. Using the concept of democratization provided by David Hesmondhalgh, I argue that Death Grips were able to realize increased democratization in taking control of their IP back from Epic after signing away the rights to it. Hesmondhalgh's writing on the use of technology by independent UK record labels as a means of increasing democratization is also taken up

by Galuszka, who applies Hesmondhalgh's concepts to his research on netlabels. This research further develops these concepts by showing how Death Grips were able to use their own label, Third Worlds, as well as their use of Creative Commons licensing (a legal technology) to increase democratization and regain control over their IP. I further develop these points through the frameworks of Patrick Burkart and Kostas Kasaras who frame file-sharing (especially of music) as a political act. Through these frames, I argue, Death Grips' aggressive democratization – their self-emancipation – supports the decolonizing of their IP from the ownership of Epic. This is possible because of the technology available to the group to digitize their music, distribute it online, and place Creative Commons licenses on the work. Also, because the nature of recording contracts so closely ties the rights to IP with the labour conditions of a musician, Death Grips were able to free themselves from control over their labour and their IP. Further, I argue that by releasing *No Love Deep Web*, which was property of Epic, the group takes on any legal repercussions of illegally sharing the files as opposed to the fans, who are now able to copy and share the album without blame.

Death Grips' relationship to their labour power and their recording contract are explored further in my fourth chapter. I argue the group engaged in aesthetic disobedience as it is described by Jonathan Neufeld. Aesthetic disobedience, according to Neufeld, runs parallel with civil disobedience, which ties the political nature of Death Grips' illicit release of their album (IP) to their labour. Although much of Death Grips' music and behaviour could be understood through Neufeld's framework, I focus on the group's use of a photo of a penis as the album cover for *No Love Deep Web*. Through the concept of aesthetic disobedience I separate Death Grips as demonstrating a unique kind

of disobedience in popular music. Where there are many cases of groups who began as rebellious (examples in the chapter include the N.W.A. and the Clash), Death Grips are an unusual case as they are willing to violate contractual agreements and recording industry norms in a way other groups have not been. Death Grips and these other groups share a rebellious and disobedient aesthetic in their art, but Death Grips routinely violate agreements in order to maintain complete autonomy of their art and labour. The release of *No Love Deep Web* is further understood by viewing Death Grips' role as employees of Epic. By using the example of Death Grips and their illicit release of *No Love Deep Web I* deconstruct the neo-liberal concept of "contractarianism" as well as the "political fiction" of "property in the person" as they are framed by Carole Pateman, then further in the contexts of recording contracts by Matt Stahl. In these contexts it can be seen that Death Grips were able to maintain unusual levels of control over their IP and labour, despite both being signed away in their labour contracts. What this suggests is that artists who were previously bound by restrictive contracts may now have options to escape those contracts via technological means. Death Grips in many ways illustrate a discursive dissonance in the popular understanding of the recording contract. While many believe the recording contract to be a highly sought after labour contract, it is still highly restrictive in what artists signed to major label deals are able to do or not do.

In writing this thesis, a number of questions arose which require further research. Most prominent would be further empirical research surrounding the actions of Death Grips. Interviews with the group directly, interviews with employees at Epic at the time of the band's employment, especially those at Epic in charge of promoting the band and

representing the band as well as L.A. Reid and Angelica Cob-Baehler, would provide a deeper insight as to the group's actions than those I was able to provide in this thesis.

Due to the current lack of academic work surrounding the band, there are several other approaches to their actions and music that could further help contextualize and understand their work. For example, a musicological analysis of the bands work, I believe, would further illustrate their disobedient nature as their music defies many conventions and norms of not just the genres in which they operate (hip-hop, noise, punk) but also music-making in general. The group has a very unique approach to their recorded music (their use of sampling, for instance) but also their live performance in that all three members are not always present, forcing them to rework how their music is performed live rather than being close reproductions of the music on their albums.

Where I took more of a political-economic approach to the band and their actions, I believe a media studies approach would also be fruitful. Throughout this research I found myself very interested in aspects of gender and race which I was unable to analyze in depth. Despite having two white members, the group does not hesitate in engaging with racial issues as they relate to Black Americans in their music. For example, the first disk of *the powers that b* is called *Niggas on the Moon*. Further, the band has commented on their use of a picture of a penis as the cover for *No Love Deep Web* by saying, “We started Death Grips being very pro-homosexual and pro-individual -- the idea of being OK with yourself no matter what. It really has to do with acceleration -- culturally, on a world level-- of sexuality in general, and getting past homophobia. People should be able to look deeper into something rather than just seeing some dick. It's also a spiritual thing;

it's fearlessness.”<sup>7</sup> I believe this quote illuminates many questions of how identity and identity politics play into the narrative of Death Grips, which could further contextualize their actions as being counter-hegemonic.

These questions, however, cannot be answered in the space I have here. It is my hope that this thesis contributes to the scholarship surrounding the evolution of the music industry as a result of the Internet and digitization. I also hope it provides a new perspective on music-making as a form of labour and how disobedience plays out in these hierarchies. Finally, I hope this thesis provides a starting point for further scholarship on Death Grips and illuminates the power musicians hold to disobey or say “no”.

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<sup>7</sup> Jenn Pelly, “Interviews: Death Grips” (*Pitchfork* December 4, 2012) Accessed October 23, 2015.

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- 2010-2014        Bachelor of Arts in Music, Acadia University

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- 2014                Dean's List
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