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Experimental Ontology of Music

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Introduction

Appeals to ordinary intuitions are common in philosophy. However, claims about intuitiveness have often been seen as a matter of armchair reflection and of introspective investigation into philosophers' own mental states rather than as an object of empirical inquiry. In the twenty-first century, there has been an explosion of a new movement: philosophers started to use experimentation and statistical tools to investigate whether philosophers' claims about ordinary intuitions are trustworthy. Experimental philosophy of aesthetics is a latecomer: first studies in the field started to appear merely a decade ago. Experimental philosophy of music, as its subfield, is even younger. Although it seems to have come into existence only in the last few years, the current studies have important predecessors both thematically and methodologically.

Of all topics in the philosophy of music, musical ontology deserves attention as it has important implications from the practical point of view, namely, legal implications related to the questions of copyright infringement. For this reason, the current chapter is mostly focused on a particularly fruitful field in experimental aesthetics: *experimental ontology of music*.

This chapter begins with a brief introduction to experimental philosophy and its relation to other disciplines. Later I present an overview of the extant empirical work in

musical ontology, primarily focusing on the question of how people make judgements whether two musical performances are of one and the same or of two distinct musical works. The overview is followed by a discussion of the current methodological challenges in this field, and, finally, a discussion of its potential legal implications.

Experimental Philosophy

Experimental philosophy is defined as the field that employs the methods of cognitive science in tackling philosophical questions. While some present experimental philosophy as revolutionary, others describe empirical methods as a traditional part of the toolbox of philosophy which was lost and is now being returned (Sytsma and Livengood 2015).

Traditionally, philosophy has not been confined solely to theoretical reflection. Experimental philosophers invoke examples of the main philosophers in the Western tradition to show that philosophy has never been confined to theoretical reflection. For instance, René Descartes dissected the eye of an ox to collect data to support his theory of visual perception. Although contemporary experimental philosophers rarely dissect animal eyes when seeking additional support for their theories, in a more general sense, they too, like Descartes, collect and analyze empirical data in attempting to find answers to philosophical questions. Although experimental philosophy has existed under this label for only a couple of decades, the approach itself is not entirely new: it is new perhaps as far as *ordinary intuitions* are the main focus of empirical research.

Some philosophers narrowly characterize experimental philosophy as the exploration of people's intuitions and only run questionnaire-based studies. However, contemporary experimental work is not limited to the intuitional program. Nonintuitional experimental philosophy uses empirical methods to attempt to answer philosophical questions as well. These philosophers employ many different methods from psychology and social sciences: eye-tracking studies, pupillometry, reading-time measurements, fMRI neuroimaging, corpus analysis, and even behavioural studies on how often ethicists steal books (see Fischer and

Curtis 2019, Fischer and Sytsma 2024). It must be noted that, after all, most research in experimental philosophy involves the study of intuitions and the underlying cognitive processes. Although there is no one universally accepted definition of “intuition,” many experimental philosophers agree that by “intuition” they mean “an intellectual happening whereby it seems that something is the case without arising from reasoning, or sensorial perceiving, or remembering” (Weinberg 2007) or “judgement generated by largely automatic cognitive processes” (Kuntz and Kuntz 2011).

The intuitional program in experimental philosophy can be divided into a few branches based on the way philosophers understand the aim of their studies. Sytsma and Livengood categorize the intuitional program into four smaller branches—positive, negative, cognitive, and descriptive (Sytsma and Livengood 2017: 45). Some X-Phi researchers engage in the positive program and see the discovered knowledge about ordinary intuitions as evidence supporting philosophical theories, while others engage in the negative program and aim to show that intuitions are sensitive to irrelevant influences and are unreliable; therefore, they argue that we should not appeal to intuitions when formulating our philosophical theories. Other philosophers are not at all motivated by the question of whether intuitions can serve as evidence, and the object of their interest instead is people’s intuitions themselves. Researchers in the cognitive program are interested in identifying the psychological and neurological mechanisms underlying our intuitions, especially our intuitions about topics traditionally thought to be philosophically important. And lastly, the descriptive program is indifferent to psychological processes, as they merely aim to describe how people talk about philosophically interesting topics.

While positive and negative programs have more to do with conceptual analysis, according to Joshua Knobe (2016), the vast majority of papers in experimental philosophy belong to the cognitive program, and what these philosophers are doing is actually cognitive science: they are interested in the *cognitive mechanisms* underlying people’s intuitions. Experimental philosophers are also interested in people’s attitudes and behaviors, and they

borrow methods from social sciences to study philosophically relevant questions. Therefore, it is not too surprising that the line between experimental philosophy and related disciplines is somewhat blurred. Often papers are classified as belonging to either experimental philosophy or psychology based on sociological factors such as the authors' departmental affiliation rather than research questions or methods in use.

Although as a movement, contemporary experimental philosophy came into existence approximately two decades ago, the experimental philosophy of aesthetics was born much later than experimental epistemology, experimental philosophy of action, experimental philosophy of mind, or experimental ethics. For comparison, during the first two decades of the existence of experimental philosophy, out of 1248 papers published in the field, 295 of them were published in ethics, 202 in epistemology, but only 24 in aesthetics (Li and Chu 2023). Philosophers working in the field have focused on topics such as aesthetic judgements (Cova and Pain 2012; Rabb et al. 2020; Cova et al. 2019; Bonard, Cova and Humbert-Droz, 2022), imaginative resistance (Campbell et al. 2021; Liao, Strohming and Sripada 2014; Black and Barnes 2017, 2020; Kim, Kneer and Stuart 2019), the concept of art (Kamber 2011; Kamber and Enoch 2018; Liao, Meskin and Knobe 2020; Mikalonytė and Kneer 2023), the interaction between aesthetic qualities and moral character (Doran 2021), or the experience of guilty pleasures (Goffin and Cova 2019).

Even if experimental philosophy of aesthetics and experimental philosophy of music is a latecomer, again, it might be seen as more of a matter of labels. For instance, the paradox of negative emotion in art, discussed by Aristotle (*Poetics*, 6, 1449b21–1450b20), and by other philosophers particularly interested in negative emotions in music (e.g., Davies 1994), has also been extensively investigated by researchers working in psychology or neurobiology departments (e. g. Zentner, Granjean, and Scherer 2008; Vuoskoski and Eerola 2012; Vuoskoski et al. 2012; Schubert et al. 2018; Peltola and Eerola 2015; Blood and Zatorre 2001). However, this work, despite thematical and methodological relevance, has not been labeled “experimental philosophy of music”.

One of the explanations being offered about this approximately ten-year gap between the birth of experimental philosophy and experimental philosophy of aesthetics is that philosophical aesthetics simply does not rely on intuitions about thought experiments—in other words, the reason is that the reliance on intuitions about thought experiments is not among the methods used in aesthetics (see Cova, 2024; Arielli 2018; Monseré 2015). However, in the ontology of musical works, appeals to intuitions do play a crucial role (Mikalonytė 2022). Questions in musical ontology (such as the categorial question, or the individuation question¹) are at least partially conceptual and do not depend entirely on aesthetic judgment, as the area lies in the intersection of aesthetics and metaphysics. Therefore, intuitions here play an important role.

Ontology of Musical Works

Musical works, compared to some other types of artworks—such as paintings or sculptures—are weird and puzzling entities.² They do not seem to be easily identified with physical objects. Whatever is created by the composer is more than merely sound—after all, a musical work exists even when it is not being played. They are not identical with their scores either, for it is possible to be familiar with a musical work without having any kind of contact with its score. On the one hand, musical works are repeatable, as we can listen to the same work many times. While on the other hand, each time we listen to the same work, we hear nonidentical versions of it. So what sort of object is the work of music actually?

The ontology of musical works, or in other words, the philosophical study of the nature of musical works, their ontological category, identity, and persistence conditions, tries to provide us with an answer to this question. When does a musical work come into being and

¹ To answer the categorial question is to find out which ontological category musical works belong to, in contrast to the individuation question and the persistence questions which are related, accordingly, to identity conditions at the same point of time and identity over time (Dodd 2008).

² First of all, we will discuss Western classical music works, but also other kinds of nonimprovisational musical works.

when does it cease to exist? Under what conditions should it be considered as “the same musical work,” and then, what would be the conditions for it to constitute “two distinct musical works”? Philosophers have suggested a large number of theories to explain the nature of musical works. The candidates for the best theory range from eternal abstract objects to sets of accurate performances or types of composer’s actions, and some philosophers even deny the very existence of musical works entirely.³

Because of this abundance of theories of musical ontology, more attention is currently being given to methodological questions. An almost universal criterion for judging ontological theories is compliance with ordinary intuitions. Coherence with ordinary intuitions is central to the methodological approach called descriptivism, which seeks compliance between ontology and everyday thought (Thomasson 2006). However, it is no less important for revisionary positions which, although seeking to revise folk theories (i.e., common sense explanations of various phenomena), still mention intuitiveness among the theoretical virtues that philosophical theories should aim for (Dodd 2013).

Claims about ordinary intuitions are extremely common in musical ontology. There are hundreds of such claims in the literature: for instance, some philosophers claim that it is intuitive that musical works are *created* (Levinson 1980: 8), while others see the *discovery* of musical works as an equally intuitive version of how musical works come into existence (Kivy 1993: 73). Topics subject to claims regarding intuitions include the way musical works come into existence, continue to exist, cease to exist; whether the type/token⁴ distinction is intuitive; whether musical works can change; whether they could have been different than they actually are; and many others.⁵ Moreover, these claims about ordinary intuitions are

³ For a review, see Dodd 2008 and Giombini 2018.

⁴ According to type/token theory, a musical work is a type (an eternally existing abstract object), instantiated in its performances.

⁵ Appeals to intuitions may be sorted into these broad topics: (1) coming into existence; (2) persistence; (3) ceasing to exist; (4) type/token distinction; (5) repeatability; (6) modal flexibility; (7) temporal flexibility; (8) audibility and shareability; (9) musical works as fictional objects; (10) do musical works exist?; (11)

often inconsistent. Unsurprisingly, it seems that philosophers are biased, as the way they describe ordinary intuitions might actually be contaminated by their philosophical commitments. Simply put, the intuitions that philosophers ascribe to ordinary listeners might in fact be a product of their philosophical beliefs. Thus it seems to be meaningful to treat these claims as hypotheses and empirically investigate what people *really think* about musical works. This is precisely how experimental philosophers can—and do—fruitfully contribute to the further development of the ontology of musical works.

Since ontologists of musical works are interested in both ordinary and expert intuitions concerning musical works, we will discuss the method most often used in the *intuitional* program, that is, questionnaire-based studies of philosophically relevant intuitions. This will illustrate how experimental philosophers of music can help ontologists by informing theoretical reflection—or possibly even solving some debates—by providing the ontological discourse with empirical findings on what is intuitive.

Studies in Experimental Ontology of Music: A Short Overview

In experimental ontology of music, a claim about ordinary intuitions is taken from the literature on the ontology of musical works and considered an empirical hypothesis. The first study in experimental ontology of music was published in 2017 by Christopher Bartel who aimed to investigate the repeatability intuition regarding popular music: under which conditions are two performances seen as two performances of one song, or two performances of two distinct songs? His goal was to “present participants with the kind of puzzling cases that philosophers of music often use as intuition-pumps to see just how widely shared are the

unperformable works; (12) purpose; (13) listening to the whole work; (14) individuation: notational identity; (15) individuation: emotional or representational properties; (16) individuation: changes in instrumentation with timbral differences; (17) individuation: changes in instrumentation without timbral differences; and (18) instantiation; as well as more general hypotheses, such as (19) inconsistency; (20) metaontological realism; (21) intuitions about nonclassical traditions; (22) composer’s intention; (23) aestheticism; and (24) sceptical hypotheses (pluralistic and indeterministic). For a full overview and specific references to appeals in theoretical literature, see Mikalonytė 2022.

intuitions that philosophers defend concerning the repeatability of musical works” (Bartel 2017: 6).

Bartel created vignettes with descriptions of three cases: two versions differing only in their provenance (performances sound almost identical but are played by two different bands), in their affect (one performance is described as humble, solemn, and unpretentious, while the other one sounds dramatic, powerful, and heartrending), and in connotation (different bands, different lyrics, different emotional tone) (2017: 8).

For instance, the first vignette reads:

AC/DC is an Australian rock band that formed in 1973 who had numerous hits and best-selling albums throughout the 1970s and 80s. They are regarded as one of the most influential rock bands ever and were inducted into the Rock and Roll Hall of Fame in 2003. “Back in Black” is one of their greatest hits. Dirty Deeds is an American AC/DC-tribute band that formed in 2000. They aim to offer a perfect imitation of AC/DC’s music and live performances. Imagine that Dirty Deeds is such a good tribute band that, when they perform “Back in Black” in concert, their performance sounds indistinguishable from performances by AC/DC. In that case, a concert bootleg recording of a Dirty Deeds’ performance of “Back in Black” would sound exactly like an AC/DC bootleg of that song. Taking all of this into account, would these be two recordings of essentially the SAME song, or are they actually recordings of two DIFFERENT songs? (Bartel 2017: 9)

After reading the vignette, participants were asked to answer the question of whether the story describes the same or a different song on the scale from 1 (definitely the same) to 6 (definitely different). What Bartel has found is that participants’ intuitions on the identity of pop music songs do not clearly support any of the main theories in musical ontology; moreover, participants do not see songs as very easily repeatable—at least less easily when compared to what philosophers would claim. In two out of three tested cases,—affect and

connotation difference, but not provenance difference, —they tend to see two performances as of two distinct songs.

In contrast to Bartel’s study which focused on pop music, in the second paper in experimental ontology of music, Mikalonytė and Dranseika (2020) presented their participants with vignettes describing scenarios concerning Western classical music works. The aim of that study was to put to test the main theories of the identity of musical works, or what makes two musical performances “two performances of *the same* work”: pure and timbral sonicism, instrumentalism, and contextualism. The scenarios tell of (a) identical scores independently created by two different composers; (b) identical scores by two different composers created by using the same compositional technique; (c) a score and its another version consisting of the same notes but reversed backwards; (d) performances differing only in emotional expressivity, (e) only in instrument and in timbre, (f) only in instrument, but not timbre; and (g) different only in semantic content. Here is an example:

There was a composer who lived in the eighteenth century and composed a string quartet (a musical work written to be performed by four string players). This quartet never became famous, but it survived until now and sometimes is still performed.

Another composer, who lived in the twentieth century and had never heard anything about the other one and about his works, accidentally created a completely identical string quartet. (Mikalonytė and Dranseika 2020: 25)

The study found that many people have prevalent and rather well-pronounced intuitions regarding the identity of musical works. Comparison of professional musicians and ordinary listeners showed that there are no important differences between the two groups, although professional musicians tend to have more pronounced intuitions. Instrumentalism and contextualism do not reflect intuitions on work identity, and although intuitions comply the most with pure sonicism, the identity of the composer also plays an important role.⁶ In

⁶ According to musical sonicists, individuation depends on acoustic properties only. The position of instrumentalism holds that work individuation depends on its acoustic properties and instrumentation, while

contrast to Bartel's study on pop music, classical music works were seen by nonmusicians and by musicians as quite easily repeatable.

In the two studies discussed above, vignettes that were presented to study participants did not come in pairs. This limitation creates some problems because nonidentical vignettes contain details that are irrelevant to the research question but might, however, influence participants' responses. Later studies in the field make use of contrastive pairs of vignettes. The between-subject design contrastive vignette technique (CVT) is probably the main method in experimental philosophy (Reiner 2019: 76). The CVT uses a pair of text vignettes that describe a scenario as plausibly as possible. The pair of vignettes is identical in every aspect except one that is crucial for the problem being investigated. They include only one small modification. Each participant is presented with only one of these two versions and then asked questions about what they read, usually giving responses on a Likert scale. This method allows the researcher to investigate any effect of the change between the two versions of the vignette. This method is not exclusive to experimental philosophy—it has been borrowed by philosophers from social psychology.

Here is an example of two contrastive vignettes created in order to test the hypothesis that study participants will believe that there is one and the same musical work if the purpose is retained, and they will believe that there are two distinct musical works if the purpose is changed. This hypothesis has been taken from Nemesio Puy's paper "The Ontology of Musical Versions: Introducing the Hypothesis of Nested Types" (2019), where the author raises a hypothesis that continuity of purpose is both a necessary and sufficient condition for the identity of a musical work. In particular, according to Puy, "different sound structures of a work's versions must keep the overall point or purpose of the work" (2019: 243) for people to consider them as two versions *of the same* musical work. This hypothesis might be supported by research in cognitive psychology which shows that people tend to think about various

contextualism holds that the individuation of musical works is also dependent on aesthetic, artistic, expressive, and representational properties.

kinds of objects (natural, as well as artifactual) in terms of their perceived purposes, and about artworks in terms of perceived authorial intentions.

In this study by Mikalonytė and Dranseika (2022), the teleological hypothesis has been tested across three studies, and three factors have been manipulated: (1) the purpose is described as either changed or retained; (2) the score either changed or retained; (3) change is made either by the same or a different composer.

[*Intro*] There was a composer who created a piano trio (musical work written to be performed on a piano, violin, and cello) called “Death.” The piano trio “Death” was written with the purpose of telling the story of a character created by the Greek philosopher Hegesias. It was the story of a man who resolved to starve himself to death. The composer believes that the work perfectly fulfils this purpose and that when listeners hear “Death” they really experience the story of the man who starved himself to death. Thirty years later, the composer

[*Purpose retained*] considers whether he should modify the work. However, he still thinks that the work perfectly fulfils its purpose of telling the story of the man who starved himself to death. Thus, the composer does not change the score.

[*Purpose changed*] decides that the purpose of the work is not really to tell the story of the man who starved himself to death. Instead, he decides and announces that the real purpose of the piano trio “Death” is to tell the story of Giordano Bruno who was burned to death. However, the composer does not change the score. (Mikalonytė and Dranseika 2022: 48–49)

After reading one of the two versions, participants are asked about two concerts in which two versions of the score (as described in the vignette) are used, and then are asked to answer the question: “Were the listeners in these two concerts listening to two performances of one and the same musical work or to two performances of two distinct musical works?” by providing a response on a scale from 1 (definitely the same work) to 5 (definitely two distinct works) (Mikalonytė and Dranseika 2022: 46). The participants were presented with stories

reflecting different types of purposes (according to Puy, the purpose of a work may be an expressive one, a descriptive one or a purely musical purpose). Similarly as in the 2020 study, participants tend to exhibit intuitions compatible with pure sonicism: persistence judgments mostly depend on the acoustical properties and whether they have been changed. Whether the change in score is introduced by the same composer or not seems not to be very important.

In the most recent paper in the area, Mikalonytė and Canonne (2023) have put to test the Phineas Gage effect. This effect is well-known in the literature on personal identity. A large number of studies conducted by philosophers and psychologists investigated people's judgments of the persistence of various objects (e.g., material objects and institutions, but mostly persons) over time. One influential strand of research has found that our identity judgments are shaped by normative considerations. In the literature on personal identity, it has been discovered that persons are believed to be essentially morally good; thus, ordinary intuitions suggest that moral improvement tends to lead to the continuity of identity of a person, while moral deterioration, on the contrary, leads to the disruption of it. However, it had not been tested whether the Phineas Gage effect extends to aesthetic value. While humans tend to be seen as essentially morally good, the paper tested whether normative aesthetic considerations have a similarly strong influence on judgments of the identity of artworks, the underlying reason being that works of art might analogously be seen as essentially aesthetically valuable.

There is a parallel discussion in the literature on musical ontology. Aaron Ridley has criticized the field of musical ontology for the reason that it ignores the importance of aesthetic judgments. According to him, identity conditions of musical works are dependent on aesthetic judgments (Ridley 2003: 213). Neufeld also claims that ontological beliefs are not entirely categorical, but in fact a type of critical evaluation (Neufeld 2014).

The participants were presented with vignettes describing an artwork which undergoes some changes and thus becomes either more or less aesthetically valuable. Three factors were manipulated: (a) artwork type: a painting or a musical work; (b) source of the change type:

brought about by the creator or happening independently of their will; (c) aesthetic change type: whether the artwork is aesthetically more or less valuable afterwards.

For instance, here is a vignette for musical work:

[*Intro*] Imagine that a contemporary musician composes a new piece, “Explosion,” for a brand-new electronic instrument. The instrument is inspired by violin, but has a very different sound. The piece is regularly performed at concerts, and thus becomes quite well known, especially for its very particular sound.

[*Change by the author*] However, a few years after the composer’s death, we discover that the composer left a will in which he asked that his piece would be played on the violin, and prohibited that the piece be played with the electronic instrument. A large number of violinists begin to play the composer’s piece in their concerts and from that moment, the piece is only played on the violin.

[*Change by external circumstances*] However, a few years after the composer’s death, the company that made this new instrument goes bankrupt and stops making them. It becomes impossible to find an instrument in good condition to play the composer’s piece. A violinist then has the idea of playing the piece on the violin. Other violinists start imitating her and begin to play the composer’s piece only on the violin during their concerts.

The sound of the piece is thus completely changed. Everyone agrees that the piece played on the violin after [the discovery of the composer’s will/the end of the production of the electronic instrument]

[*Higher aesthetic value*]: is much more beautiful. Each time the piece is performed in a concert hall, it is a public success.

[*Lower aesthetic value*]: is much less beautiful. Every time the piece is performed in a concert hall, it is a public failure. (Mikalonytè and Canonne 2023)

Mikalonytè and Canonne tested the Phineas Gage effect on artworks across four studies. In the first two studies, only textual vignettes were used, and the Phineas Gage effect.

In the third study, half of the participants also had to listen to short excerpts of music, and, this time, the effect was present, but mainly driven by the participants who were presented textual vignettes only. In the fourth study, Mikalonytė and Canonne compared changes to the aesthetic and moral value of the work, and once again, the effect was present across both types of changes, even if, overall, participants were more likely to find that a change in value would result in a new artwork when this change was of a moral nature rather than of an aesthetic nature. Such mixed pattern of results suggests that, although changes in aesthetic value may have an effect on our identity judgments, it is likely that another process plays the primary role in guiding our intuitions about the identity of artworks, or a mixture of processes, for example, their material identity or the relation with the author. Moreover, intuitions on the identity of artworks seem to be guided by information related to their moral value more than by information related to their aesthetic value. These results are compatible with those of studies on the folk concept of art: artworks are not seen by the folk as *essentially* beautiful (Kamber 2011, 2018; Mikalonytė and Kneer 2023).

In addition to those four empirical papers in experimental philosophy of music, philosophers who are interested in developing the field further might find inspiration in the abovementioned Mikalonytė's (2021) paper "Intuitions in the Ontology of Musical Works." The paper presents a collection of empirical claims about ordinary intuitions regarding musical works which are extracted from the theoretical literature on musical ontology. This paper argues for the use of empirical methods to discover what are the prevalent intuitions about musical works, and it might be used as a tool for discovering the most promising directions for future research.

Methodological Challenges

In most of the existing studies in experimental philosophy of music, text vignettes were used to describe thought experiments about musical works. However, there is a methodological

discussion on whether verbal descriptions of thought experiments are appropriate and whether acoustic stimuli are necessary for obtaining reliable results.

In his paper “Methodological Worries on Recent Experimental Philosophy of Music,” Nemesio García-Carril Puy claims that experimental philosophers who use text vignettes place participants in an epistemic situation which is different from the one that people usually are in when they are engaged in musical practices. The most usual epistemic situation involves aural acquaintance with a musical piece and aural perception rather than reading verbal descriptions. According to Puy, if we want to elicit everyday judgments, we have to ensure that people exercise their everyday capacities, because

The primary way in which we deal with musical works and performances is not by reading descriptions of them, but by experiencing them, i.e., hearing or playing them. Musical works are primarily things to be heard and played, and it is in the game of hearing and playing where we usually judge them. (Puy 2022: 5)

Therefore, he argues, the attitudes elicited by thought experiments and text vignettes are not the same as peoples’ everyday judgments.

Moreover, Puy points out the problem of “filling in.” This critique is motivated by the fact that the description offered in the vignette doesn’t provide enough details. According to Weinberg, “different imaginers, with different life experiences, or who have cultivated different tastes in fictions may fill in those details in subtly but tellingly different ways” (Weinberg 2019: 273). Since the vignettes in experimental philosophy often describe unusual situations, more variables are open to the participants’ imagination and these experiments are vulnerable to “irrelevant narrative elements.” Therefore, according to Puy, description-based experiments demand a higher reliance on participants’ imagination and long-term memory than experiments that incorporate musical stimuli.

Finally, the third concern raised by Puy is that judgments on work identity depend on judgments about a work’s aesthetic properties. Everyday judgments about work identity involve considerations about aesthetic properties as the identity of musical works is taken to

be—to some extent—dependent on its aesthetic properties. Our everyday judgments on individuation, which are partially based on aesthetic considerations, usually involve phenomenal knowledge about the works and performances considered. By supplying descriptions instead of musical stimuli, experiments fail to mobilize participants' everyday abilities for the aesthetic judgments. Therefore, Puy claims that these judgments do not reflect the real intuitions that guide our musical practices.

James Andow (2018) ran a study to empirically test the hypothesis that although people feel comfortable trusting testimony about the formal or descriptive properties of artworks, they are more cautious when it comes to basing beliefs about aesthetic properties. In particular, study participants were asked about permissibility and legitimacy of reliance on aesthetic testimony, in particular, whether it is permissible and legitimate “to adopt the view that a particular painting is beautiful/is ugly/is large/cost \$14 million to create because an expert/a friend/ firsthand experience tells you that the painting is beautiful/is ugly/is large/cost \$14 million to create?”. The results have shown that forming an opinion based on testimony is considered to be less permissible/legitimate in aesthetic cases—such as judgments on beauty and ugliness—compared to nonaesthetic cases, such as size and cost. If people don't believe that aesthetic testimony is a good reason to form beliefs about aesthetic value, vignette-based study design might turn out to be problematic: participants might not form their opinion about the aesthetic value based on descriptions.

Puy's paper also raises a very important but severely underexplored question about the nature of intuitive judgments that are relevant to the ontology of musical works (assuming that intuitive judgments—either ordinary, expert, or both—*are* relevant). Are judgments of the individuation of musical works aesthetic or purely conceptual judgments? Does the question of what ontological category musical works belong to depend on aesthetic judgments, is it a conceptual judgment about application of the concept of a “musical work,” or a mix of the two?

According to Puy, ordinary judgments on individuation normally involve perceptual information and phenomenal knowledge about the work or the performance; thus he doubts the possibility of making genuine aesthetic judgments without perceptual experience. However, information about nonperceptual factors (for example, composer's identity or intentions) cannot be excluded from the judgments about musical works either. We could consider, for example, the relative importance of perceptual factors in case of acoustically indistinguishable works of music. Are identity judgments about acoustically indistinguishable performances based on perceptual information to a larger extent than on explicitly conceptual information (i.e. simply being told that it is not possible to distinguish the two performances)?

This methodological controversy indicates a need for philosophers of music—and experimental philosophers of music in particular—to be explicit on very important metaphilosophical assumptions about which kinds of intuitive judgments are relevant to the ontology of musical works. Puy situates his metaphilosophical position within the general framework suggested by Edouard Machery (2017): people differ in the way they imagine less familiar situations, and their judgments are impacted by superficial content of the story. However, it would also be crucial to situate the question of the kind of intuitive judgments more explicitly within analytic ontology of music—when ontologists of musical works talk about building intuitive judgments and musical practices into theories of musical ontology, what exactly are they talking about?

Using purely textual information in empirical research indeed might change the balance of conceptual and perceptual factors in the way that the conceptual factors are overemphasized. However, we cannot separate music from the cultural context in which we deal with musical works not only by listening to them but also by reading about them in the books of history of music or concert programs. Acquaintance by description—at least in Western classical music tradition—is as usual in everyday contexts as acquaintance by means of aural perception. Moreover, explicit descriptions of thought experiments and philosophically interesting cases are routinely used in research with the purpose of explicitly

emphasizing the factors of interest and minimizing the importance of those that are irrelevant to the question that is being investigated. It often allows emphasizing the information about nonperceptual factors (such as composer's intentions). On top of that, some cases discussed in the literature are impossible to be investigated by using acoustic stimuli. For example, there is discussion on musical works that are impossible to perform (Cray 2016): some works are impossible for any actual organism to perform, given biological limitations—for example, works for solo musicians significantly longer than any solo musician could live. In these cases, providing the participants with acoustic stimuli is impossible. Thus, text vignettes allow for investigating a wider variety of cases.

While Puy states that text vignettes rely more on participants' imagination and long-term memory, this claim seems to be rather controversial. While there is indeed more space for "filling in" the perceptual content in the case of a short description which tells us that two works are acoustically indistinguishable, two indistinguishable musical stimuli seem to require a lot of memory and attention to be recognized as such. Some questions in the ontology of musical works—for instance, a question of what counts as a creation of new musical work—would require listening to the whole work. If a whole work happens to be a longer musical work, such as a symphony, huge quantities of participants' time and attention would be required, and for this reason this kind of experiments might be less reliable than short textual vignettes in which crucial information is presented in a more efficient way.

Our everyday judgments are most likely based on a mix of conceptual and perceptual information. Some questions—primarily, questions about individuation—are better to be investigated by using aural stimuli in addition to vignettes. For some other questions—mostly those concerning the categorial question (see Dodd 2008), textual vignettes might be sufficient and possibly more efficient.

Moreover, future research should focus on qualitative tools to gain insight into individual reasons why participants choose some responses over others—qualitative research remains relatively unpopular in experimental philosophy (Andow 2016).

Besides the lack of clarity about the nature of judgments under consideration, another limitation of the current research in the field—and an invitation for explorations in this direction—is the lack of cross-cultural research. Although five studies in experimental ontology of music have been carried out up to this date, in all five studies the participants were either from European countries (Spain, France, Lithuania, and the United Kingdom) or from the United States. Not unlike most empirical research in the social sciences, experimental philosophy tends to oversample populations from WEIRD (Western, educated, industrialized, rich, and democratic) countries (Henrich, Heine, and Norenzayan 2010). Non-Western societies might have different beliefs about musical works and the non-WEIRD concept of a musical work might not correspond to notions of musical works in Western societies. Therefore it seems meaningful to expand research in experimental philosophy of music to more diverse populations.

Some philosophers have argued that the findings of experimental philosophy are very stable across cultures (Knobe 2019, 2021), while others have argued for the opposite (Stich and Machery 2022). In aesthetic contexts, there is one cross-cultural study on intersubjective validity of aesthetic judgments, and the results suggest that there might be some cultural variation (Cova et al. 2019). Different societies might have different beliefs about musical works. The concept of a musical work might not correspond to notions of musical works in non-Western societies. Thus it seems to be meaningful to make experimental philosophy of music more diverse and to study other populations.

However, it is not just cross-cultural variety that is underexplored in the field, but other musical cultures within the West. While Bartel (2018) has concluded that musical works are not held to be that easily repeatable (i.e., it is not easy to play the same work again—many conditions must be met in order to *repeat the same work*), or at least much less than philosophers tend to think, Mikalonytė and Dranseika (2020) make the opposite conclusion: works of classical music are seen by many people to be even more easily repeatable than most philosophers predict. There might be significant differences between different musical genres

in the West. For instance, in Bartel's study, the majority (61 percent) of participants see two versions of a song different in emotional expressivity as two different songs. Meanwhile, in Mikalonytė and Dranseika (2020), 72 to 76 percent of participants see two classical music performances differing in emotional expressivity as two performances of the same musical work. Although it is difficult to directly compare the two studies—playing a different version of a pop song and performing a classical music work twice is not exactly the same process—it seems reasonable to assume that differences between intuitions regarding works of classical music, jazz, pop music, and other musical genres might be significant. This, again, would invite theoretical reflection: Is there one unified kind that is musical work? Do *musical works* exist at all in improvisational traditions? Intuitions relevant to the ontology of musical works across different musical genres remain severely underexplored and offer rich research opportunities.

Legal Implications

The discussion on the nature of musical works, especially their identity conditions, also has a legal dimension. Questions of creation and ownership of musical works, as well as their identity conditions, pertain to legal discussions on copyright no less than to philosophical aesthetics and metaphysics. Copyright, in turn, is central to the music industry. In order to put forward a fair reward system for the artists and everyone involved in the music industry, it is crucial to understand what the nature of musical work is, as well as the way in which our society thinks about the above-listed interrelated questions.

In copyright law, a distinction is made between two kinds of musical objects: musical works and musical recordings. Accordingly, there are two distinct copyright protections, called, at least in the United States, “composition copyright” and “recording copyright” (Lund 2011). Copyright protects musical objects that have been in some way fixed—either by setting them to paper or by making an audio recording. While musical works can be fixed in the form of scores, by making an audio recording two objects are held to be created: both the

musical work and the specific recording. While sometimes it might be relatively unproblematic to say what counts as an infringement of recording copyright, at least if it is a matter of audio sampling, in the cases of alleged composition copyright infringement, courts invoke listeners' tests.

Arguments over cases of copyright infringement receive a lot of attention precisely because of the fact that it is often unclear what counts as the same or a distinct musical work and how much exactly of the musical information can be repeated without repeating the same work, or how much can be altered with the work still retaining its identity. These problems are particularly apparent in the production of cover songs and remixes. Copyright law itself, in Bartel's words, is "a tangled web of overlapping and sometimes conflicting laws" (Bartel 2017: 5). It is especially complicated in the digital age, when the copyright still distinguishes between a musical work and a sound recording, although most composers nowadays create songs by digitally composing an audio object directly, without encoding it in the score (Bennett and O'Connor 2021).

Thus we see that philosophy and psychology are not the only domains with interest in the concept of a musical work. The kind of research presented in this chapter might be extended to become a part of experimental philosophy of law, especially if we are interested in investigating the relationship between the legal and ordinary concepts of musical work.

The idea that the ontology of artworks might be relevant to copyright law is not new. In his recent book *Radically Rethinking Copyright in the Arts* (2021), James O. Young argues that the rules of copyright should be deduced from the ontology of artworks. If he is right, by informing armchair philosophers about the state of ordinary intuitions, experimental philosophers can also inform copyright law.

In her recent paper "Experimental Philosophy of Law," Karolina Prochownik points out the motivation for being interested in ordinary concepts as they relate to legal discourse. Legal concepts are modelled on ordinary concepts, and in legal contexts, experts often refer to the ordinary usage of relevant concepts (Prochownik 2021: 4). While experimental research

regarding the concept of musical work is likely to be seen through this lens, it is, however, a matter of discussion whether the legal concept of musical work is modelled on the ordinary concept. For example, somewhat in contrast to James O. Young's proposal above, Anne Barron has argued that even though copyright categories of a musical work developed relatively autonomously from aesthetic thought about musical practices, the work in intellectual property historically played an important role in producing the aesthetic concept of musical work (Barron 2006). This relation between the two concepts could be explored by comparing empirical data on ordinary intuitions concerning musical works to the legal expert concept of musical work. Experimental studies of this kind may help to make sure that whenever legal experts appeal to ordinary intuitions—and this is a common practice in law—they really touch on the ordinary concept of musical work rather than the legal concept, regardless of the reason why they consider ordinary intuitions to be relevant to legal discussions. Of course, this kind of research cannot solve essentially normative legal debates in copyright. However, it is reasonable to expect that the legal concept of musical work does not depart from its ordinary counterpart too far.

What is even more important than the relation between ordinary and legal concepts is that in some countries, such as the United States, cases of plagiarism are addressed by juries consisting of laypersons. Therefore, what counts as plagiarism in legal practice in some cases is *decided* by the nonspecialists, and this process is called the Lay Listener Test. While there is a judicial distinction between expert and ordinary listeners, and historically, there have been different views on the role of both groups (Leo 2020), expert judgments on similarity of two works, although significant, are not sufficient: for a claim of copyright infringement to be successful in a US court, a jury consisting of nonmusicians must reach the conclusion that two musical works are “substantially similar” or “strikingly similar.” In some cases, the expert testimony is simply excluded, since it is assumed that the judgment must be made by ordinary listeners, as popular music is created for their ears. These judgments are very similar to the object of the experimental ontology of music. Roseanna Sommers proposes one more reason

why the endeavour to study ordinary intuitions is worthwhile: unlike in real legal cases when people have to determine what counts, for example, as causation or consent—or, in this case, in order to determine if there has been violation of copyright in music—vignette studies allow us to investigate how people evaluate these cases in circumstances where they are not personally involved and, as a consequence, are likely to be less biased (Sommers 2021).

There is, however, one important difference between forensic musicology and experimental ontology of music. In the former, usually, it is an element of musical work that is judged to be “substantially” or “strikingly” similar. However, at least in some cases, it is the musical work itself that is thought to be “the same.” Famous example is George Harrison’s “My Sweet Lord,” recorded in 1970, apparently subconsciously copied from The Chiffons 1963 song “My Sweet Lord.” The judge who recognized this as a case of copyright infringement, concluded:

Did Harrison deliberately use the music of “He’s So Fine”? I do not believe he did so deliberately. Nevertheless, it is clear that “My Sweet Lord” is the very same song as “He’s So Fine” with different words, and Harrison had access to “He’s So Fine.” This is, under the law, infringement of copyright, and is no less so even though subconsciously accomplished. (Stafford 2021: 197)

If the concept of the identity of musical works is relevant to law, as it seems to be, experimental philosophy of music seems to be the way to go in order to understand how the decisions of juries consisting of nonmusicians might work. If that is true, that is another way how experimental philosophy of music might be relevant to reflection on copyright law and cases of copyright infringement.

Concluding remarks

There are a couple of important points that should be considered in future research in experimental philosophy of music.

The currently existing studies that have been discussed in this chapter invite further methodological reflection. In particular, it is important to focus more on the nature of intuitive judgments that are relevant to the ontology of musical works, the relative importance of aesthetic and categorical elements in these judgments, and the ideal proportion of perceptual and conceptual information presented in future studies. While judgments of identity seem to be influenced by the mode of presentation—either by using vignettes and acoustic stimuli or only textual vignettes alone—some other aspects of musical works seem to be mostly confined to the conceptual realm. Either way, we need more methodological and metaontological work on how experimental philosophy can be useful in the ontology of musical works.

Since all of the existing studies in experimental musical ontology so far have focused on work individuation and persistence, future studies might explore intuitions on the creation and destruction of musical works. It might be particularly important to reflect on the possible differences between category and individuation questions through the lens of the distinction between conceptual and perceptual information. Moreover, existing results show important differences between various musical genres. It is thus important not to confine experimental philosophy of music to classical works only. While pop music, song covers, and remixes comprise one rather evident direction, jazz music, too, would be one of the most theoretically interesting among the so far unexplored musical genres. The experimental philosophy of music might turn out to have important legal implications. It may help to discover the relation between legal and ordinary concept of musical work and, most importantly, inform legal discourse about the concept of musical work that ordinary listeners operate with.

Finally, experimental philosophy of music offers rich research opportunities outside of ontological questions. For example, another important topic in the philosophy of music is the relationship between music and emotions. In his 2018 paper “Lost in Musical Translation,” Constant Bonard aims for “a fresh look at old philosophical problems from an experimental perspective.” He discusses the overlap between language and music cognition and empirically

tests hypotheses related to the cross-cultural communication of the affective meaning of music. In another recent paper, Mario Attie-Picker with colleagues explore the reasons why people listen to sad music (Attie-Picker et al., forthcoming). Bearing in mind recent original work in musical semantics (Schlenker 2022, 2019, 2017), empirical explorations of the problems related to musical meaning seems to be another fruitful direction of research in experimental philosophy of music. It would also open new possibilities to include a broader spectrum of methodological tools currently being explored by experimental philosophers besides textual vignettes alone.

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