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Legitimacy of Fan Fiction

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Legitimacy of Fan Fiction

Writing Process

The process began by exploring different possible topics related to the class theme of "remix culture". From there I met with Professor Biswas and formulated a strong thesis for my argument. Then I found sources applicable to my topic. I next constructed an outline, created a rough draft, had my draft peer edited by fellow students and Professor Biswas, and finally made appropriate revisions.

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ENG200H

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Legitimacy of Fan Fiction

Fan fiction, the practice of writing a new version of an already existing work, is an emerging literary genre. When one finishes a novel, TV series, or movie, he or she often leaves wanting more. Fan fiction serves as a way for writers to fulfill this desire by filling in gaps of a story, creating their own plot twists, or expanding on the ending. The process of producing fan fiction requires further analysis of an original work, creative thought, as well as collaboration and interaction with other members of the fan fiction community. Fan fiction writers use the foundation laid by the original author to construct their own version of the story which transforms the work into something new. This transformation allows fan fiction to be brought into the discussion of fair use making it viable as legal means of authorship. Fan fiction is a legitimate form of authorship serving as a medium for creative expression and a platform for an interactive literary community which creates new and transformative works making fan fiction legal as fair use.

The emergence of fan fiction has been troubling to some members of the literary community especially those who are the creators of the original works. Many authors invest much time and effort developing characters and do not want to see these characters being altered by random authors. To fan fiction writers, the characters of the story almost take on a life of their own, and thus fan fiction authors wish to create their own personal version of these characters' lives. Ironically, the ability for characters to exist outside the text in the minds of readers is why

it is so important that authors maintain the legal right to their characters (Said 772). Many authors' sole fear of fan fiction is it will hurt them financially. Author Orson Scott Card writes, "I'm flattered; and then, if they try to publish it (including on the net) except in very restricted circumstances, I will sue, because if I do NOT act vigorously to protect my copyright, I will lose that copyright -- and that is the only inheritance I have to leave my family. So fan fiction, while flattering, is also an attack on my means of livelihood" (Patta). Card is not so much upset with the idea of others building off and using his stories and characters, but rather the fact that it threatens his livelihood. Many others like Card, are not disgusted and are in fact flattered that one would like their story enough to write their own derivative of the work.

Unsurprisingly, not all authors have the same opinion when it comes to the opposition to fan fiction. J.R.R. Tolkien, writer of *Lord of the Rings*, showed disgust of fan fiction when he wrote in a letter regarding a work of fan fiction a fan sent to him, "I do not know what the legal position is, I suppose that since one cannot claim property in inventing proper names, that there is no legal obstacle to this young ass publishing his sequel, if he could find any publisher, either respectable or disreputable, who would accept such tripe" (qtd in Abrahamson 53). Tolkien seems to discredit the existence of any merit in fan fiction. Anne Rice, well known for her disapproval of fan fiction, matched Tolkien's attitude when she responded when asked about fan fiction by saying, "I don't ever want to read about my characters in someone else's writing. It's too upsetting for me, because they are mine and from my mind. I never read fan fiction. Other writers feel differently about it and are happy and encouraging of it. I don't make judgments -- I prefer to ignore it" (Peregrin). Rice's opposition to fan fiction goes beyond the financial realm. The mere idea of someone else altering the characters is troublesome to Rice because the characters are dear to her and almost become a part of her. However, this same relationship with

characters is often experienced by the fan fiction writers, and they use fan fiction to continue the relationship. As Rice stated, the disturbance of others using her characters seems to be able to be avoided by just ignoring and not reading fan fiction stories about her works.

The use of a previous author's ideas, characters, and story plots, which is central to fan fiction, causes critics to question the legitimacy of fan fiction; however, these criticisms can be challenged. The criticisms of fan fiction were summarized well by Aja Romano, a writer for *The Daily Dot*, who was responding to critics of fan fiction such as Tolkien and Rice, when she vents, "You think fan fiction is just plagiarism. You think fan fiction is cheating. You think fanfic is for people who are too stupid/lazy/unimaginative to write stories of their own. You're revolted by the very idea that fanfic writers think what they do is legitimate" (qtd in Abrahamson 61). Romano, obviously a proponent of fan fiction, wishes to address the negative attitudes against writers of fan fiction. Romano goes on to say, "We get it. Congratulations! You've just summarily dismissed as criminal, immoral, and unimaginative each of the following Pulitzer Prize-winning writers and works [...]" (Abrahamson 61). Romano then names off a list of a hundred authors, such as James Joyce, Jane Smiley, and Michael Chabon, who she considers influential in the western world and have engaged in types of fan fiction (Abrahamson 61). Romano is showing that the method of analyzing a source text and using and building off the ideas is not uncreative, lazy writing. Rather, it is a process that still requires skill and creativity.

Tolkien himself is claimed to have used a form of fan fiction in his own works. Tolkien was very intrigued by English folklore and this interest inspired him to write his own endings and versions of these stories (Abrahamson 63). This practice is very similar to that of fan fiction because Tolkien sought to add his own touch and imagination to preexisting stories. Tolkien's

previous quote opposing the fan fiction writers seems to make his attitude hypocritical in light of the process he used to create his own stories.

Tolkien's application of processes similar to ones used in fan fiction should not decrease the merit of Tolkien's works but rather "seeing Tolkien's work in this light should increase the value and reputation of fan fiction, as the genre deserves more respect and attention than it has often had among the academic community and among professional fiction authors" (Abrahamson 62). The negative connotation of fan fiction should be changed because it is a technique which has been applied by many great authors. It is also a technique which has been common since the beginning of literature. Anne Jamison argues, "Reworking an existing story, telling tales of heroes already known to be heroic, was the model of authorship until very recently" (18). The archaic nature of fan fiction adds to its legitimacy as a reputable form of authorship. The name fan fiction often distracts from the actual process completed which has been a major part of literature throughout history.

Although some authors are not in favor of fan fiction as a legitimate literary genre, there are authors who see no problem with fan fiction and even encourage it. Writing to a young fan, C.S Lewis states, "I am delighted to hear that you liked the Narnian books. There is a map at the end of some of them in some editions. But why not do one yourself! And why not write stories for yourself to fill up the gaps in Narnian history? I've left you plenty of hints – especially where Lucy and the Unicorn are talking...I feel I have done all I can!"(104). Lewis is blatantly encouraging the child to write fan fiction. Lewis recognizes the creative thinking that fan fiction requires and thinks it is a good activity for young writers. Authors like Lewis want their characters to live on through the stories of other authors. Gene Roddenberry, the creator *Star Trek*, furthers this notion when he writes in the forward to a fan fiction novel of *Star Trek*,

Eventually we realized that there is no more profound way in which people could express what *Star Trek* has meant to them than by creating their own very personal *Star Trek* things. Because I am a writer, it was their *Star Trek* stories that especially gratified me. I have seen these writings in dog-eared notebooks of fans who didn't look old enough to spell 'cat.' I have seen them in meticulously produced fanzines, complete with excellent artwork. Some of it has even been done by professional writers, and much of it has come from those clearly on their way to becoming professional writers. Best of all, all of it was plainly done with love.... That is the highest compliment and the greatest repayment that they could give us. (2)

Roddenberry understands fan fiction as a form of love. Roddenberry greatly appreciates this love from his fans and supports the activity of fan fiction. He shows how fan fiction should be understood not as stealing or lazy writing, but rather as an expression of admiration of the original work. People of all ages and writing levels can participate in this expression which serves as a way to carry on the lives of the characters as well as a way of complimenting the original author.

Fan fiction is not only gratifying for the author of the original work, but it also beneficial for the writer of the fan fiction. Fan fiction creates a way for writers of similar interests to come together and not only share ideas but also give suggestions and make comments on the writings of others. According to Becca Shaffner, an active member in the fan fiction community, “Fan fiction is about the whole community of fans, not just the stories, and not even just the writers who are a big deal” (613). Fan fiction is not just about the creation of derivative works; it is about the interaction the process involves. The community of fan fiction helps writers develop their work and improve their writing. A blogger who participates in fan fiction writes, “Without

fellow fanfic authors, I would never have learned how to tell a story properly. I've gone from writing bad script-format stories with no punctuation to speak of to being capable of telling a novel-length story" (Writes). Writing fan fiction not only gives readers a chance to practice creative writing, but it also gives writers a way to improve their ability by having their works read and evaluated by other writers. The community of fan fiction functions similarly to a more traditional peer review group used in classrooms and other academic settings. Fan fiction creates not only an environment that inspires creativity, but it also creates an environment that encourages learning.

Engaging in fan fiction is a beneficial process; however, the possibility of legally distributing works of fan fiction must be addressed. Due to the recent emergence of fan fiction on the internet, organizations have created platforms for writers to profit from fan fiction. Most notably, Kindle Worlds, as stated on the Amazon website, is "a place for you to publish fan fiction inspired by popular books, shows, movies, comics, music, and games. With Kindle Worlds, you can write new stories based on featured Worlds, engage an audience of readers, and earn royalties". Kindle Worlds has secured licenses from various TV shows and books such as *Pretty Little Liars* and *Bloodshot* so that fans can fans write about the shows and books without worrying about legal hassles. Kindle Worlds has recognized fan fiction as a legitimate form of authorship and therefore has provided a platform where authors can earn money from their works.

Unfortunately, not all authors are willing to make licensing agreements with companies like Kindle Worlds; however, there is a way for fan fiction writers to legally create derivative works without the original author's consent. The US copyright law does grant the original creator to claim not only the rights to the story, but also the characters in the story (Chander

612). Nevertheless, if the derivative work is deemed fair use, the fan fiction writer can legally produce the work without the consent of the author of the original work (Chandler 612).

Determining whether a work is considered fair use can be tricky due to the ambiguity of the copyright law. According to the US Copyright Law's website, "the fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright." Fan fiction is in many cases a form of commenting or criticizing on the original work. Fan fiction authors often think the ending should have been different or wished certain plot twists would have occurred. Instead of spelling these criticisms out in the form of a rhetorical analysis or formal critique, fan fiction authors write their own versions of the story with their criticisms in mind. The Stanford University Fair Use and Copyright webpage defines fair use as use of a copyrighted material for "transformative" purposes. Fan fiction is transformative because it uses already existing characters and creates a different plot line thus transforming the original story into something new.

Fan fiction works being transformative especially applies to fan fiction works which use a popular work to assert a political position. Examples of this type of fan fiction are what Anupam Chandler and Madhavi Sunder describes as Mary Sues (597). Mary Sues "comment on or criticize the original, while at the same time create something new" and simultaneously point out "the absence of society's marginal voices in the original works, the stereotyped actions or inactions of certain characters, and the orthodoxy of social relationships in the original" (Chandler and Sunder 613). An example of a Mary Sue is a derivative work of *Star Trek* which seeks to give women characters a greater role in the stories. The greater representation of women in the derivative transform the original into one which is more favorable to the heroic capabilities

of women thus transforming the nature of the work. The example of Mary Sues shows how fan fiction can transform the original work into something new by commenting on and critiquing it thus making it viable for fair use.

The Organization for Transformative Works (OTW) was created to protect works of fan fiction such as Mary Sues. On the OTW's website it states, "OTW was created to work toward a future in which all fannish works are recognized as legal and transformative, and accepted as legitimate creative activity." The main legal precedence the organization relies upon to claim fan fiction is transformative and therefore considered fair use is the case *Campbell V. Acuff-Rose Music, Inc.* In the case, the group 2 Live Crew created an alternate version of the song "Oh, Pretty Woman" by Roy Orbison (Chandler and Sunder 613). The Supreme Court ruled that, "2 Live Crew's version of 'Oh, Pretty Woman' was a parody and could be a fair use" (Babiskin 217). The 2 Live Crew's song borrowed a similar melody and lyrics but also transformed the song giving it new meaning. According to Babiskin, "The Court recognized the social benefit derived from parody and noted parody's obvious claim to transformative value" (217). Fan fiction would not often be thought of as parody but the Supreme Court goes on to define a parody as "the use of some elements of a prior author's composition to create a new one that, at least in part, comments on that author's works" (Babiskin 217). With this definition, works of fan fiction should be deemed fair use given they also achieve a similar purpose as the parody created by the 2 Live Crew. Since fan fiction comments on the original author's work by adding one's own personal interpretation and ideas, it fulfills the transformative qualities needed to be deemed fair use.

The main problem with fan fiction being considered fair use, which was brought out earlier by the quote from Orson Card, is that fan fiction damages the market of the author of the

copyrighted material. This argument is flawed for a few reasons. One reason is that it would not make much sense for one to read fan fiction without first reading or watching the original work. If anything fan fiction would seem to create greater popularity for the original. Also, if critiques are considered fair use, would not they also damage the market of the original? The arguments that fan fiction causes financial damage to the copyrighted author do not seem to be an efficient reason for fan fiction not to be considered fair use.

The discussion of fan fiction is one that reaches into many areas of debate. The apparent unoriginality and copyright infringement associated with fan fiction often attracts negative connotations. However, with further analysis, the positives and legitimacy of fan fiction as a form of authorship can be shown. Fan fiction allows the characters in the story to live on by giving readers a chance to continue their relationship with them. Fan fiction creates a unique literary community which sparks creative thinking and serves as a form of love for the original author's work. Fan fiction provides a beneficial practice for writers; in addition it benefits society by creating transformative works giving new meaning to already existing stories. The transformative nature of fan fiction allows it to be considered fair use and thus a legal and legitimate form of authorship.

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