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'Let It Go': Disney's New Approach to Copyright Enforcement

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Writing Process
After the research paper had been assigned, I began researching possible topics. Once I found an area that interested me, I narrowed down my research and formulated a working argument. There have been many writings about Disney’s strict enforcement of copyright; I however took a different approach. I gathered scholarly and popular sources that ranged from background information, similar arguments, and counter points. For the rough draft, I first crafted an outline, then wrote the body paragraphs, and finally the introduction and conclusion. In class, we had a peer review session and my professor gave us constructive notes on our individual drafts. After editing my draft from the comments, I went to The Write Place and my professor’s office hours. I asked them questions focused on content, structure, tone, and organization. After revising my paper again, I went back to The Write Place but this time focused on grammar, sentence structure, and wording. Finally, I had my parents and a few friends read it so that I could have many eyes editing it to find mistakes that could have been overlooked. The long and detailed process I took in writing my research paper involved many drafts, leveraging available resources, and multiple iterations spanning weeks of time, which I believe it resulted in my best work.

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“Let It Go”: Disney’s New Approach to Copyright Enforcement

Walt Disney once said, “It was all started by a mouse.” When he said this, he was talking about the massive Disney empire, one of the most powerful and successful corporations in the world. However, this statement can also apply to the large expansions of copyright protection in recent years. In order to keep its beloved Mickey Mouse out of the public domain, Disney has consistently used its wealth and influence to push Congress to pass multiple laws that extend copyright protection. However, recently there have been clear signs of a shift in the company’s approach towards copyright enforcement, beginning with the release of its biggest hit: Frozen. While the Disney Corporation has always proved to be a strict believer and enforcer of copyright law, the company made the wise business decision to begin evolving into an acceptor and promoter of today’s remix culture and the copyright infringement it involves.

A copyright is a form of protection, or the exclusive legal right given to the originator/inventor, to, for example, print, publish, and perform the original work of authorship and to authorize others to do the same. Congress passed the first copyright law under the new U.S. Constitution in May of 1790. It protected only books, maps, and charts for a term of 14 years ("A Brief Introduction and History"). After the term of protection is up, there is privilege of renewal for another designated time and then the work becomes part of the public domain. If a work is in the public domain, it is open to the general public for use without, and therefore not subject to, copyright. Over the years, copyright has been extended not only in length of protection, but also in types of works protected. For example, in 1831, the first general revision
of the copyright law added music to the list of protected works and extended the term of protection to 28 years. The copyright duration has been lengthened by Congress over ten times in the last forty years. Today, copyright protection lasts for the entire life of the author and 70 years after his or her death, and encompasses all different types of original works including music, software, novels, architecture, dance, and film ("A Brief Introduction and History").

When discussing copyright and film, we must consider Walt Disney’s most famous cartoon creation: Mickey Mouse. This iconic mouse debuted in 1928 in his first animated short, *Steamboat Willie*. This was only the beginning of the dynasty Mickey would lead. He quickly grew to become a cultural icon who holds more recognition, and sometimes influence, than prominent actors and politicians. Mickey is loved across the world by all ages and demographics. As the official logo of Walt Disney Studios, the tiny mouse created an empire that earns billions a year from theme parks, movies, merchandise, and so much more (Mun 9).

Mickey and the rest of Disney’s iconic characters are the largest source of income for the behemoth corporation, so it is no surprise that Disney wants to keep them protected. The copyright for Mickey is the company’s most prized possession, and the expiration of this protection stands to greatly threaten the company’s success. Under the 1909 Copyright Act, protection lasted for 28 years with a term of renewal of an additional 28 years, meaning that Mickey’s copyright would have ended in 1984. When the copyright was close to expiration in the 1970s, Disney put its massive influence and wealth to work in the fight to keep Mickey in the company’s hands. The Disney Corporation began extensive lobbying and making hefty political donations to push its agenda in Congress. In the 1997-98 cycle alone, Disney contributed nearly $800,000 to political campaigns, including key committee members, co-sponsors of the copyright bill, and the National Republican Senatorial Committee (Mun 10). In the absence of a strong opposition, Disney was successful in influencing Congress to pass the Copyright
Protection Act of 1976, which extended term of protection to the entire life of the author plus an additional fifty years. Under this act, Mickey and other Disney stars would not enter the public domain until 2003.

The significant political donations Disney made allowed it to keep profiting for almost another twenty years. However, it soon had to resume the fight to extend copyright protection nearing the start of the 21st century. Disney was not alone in this fight; it received help from the rest of the Motion Picture Association of America (MPAA), which included Warner Bros., Universal, Sony, Twentieth Century Fox, and Paramount (Kenny). This lobbying monster pushed Congress to pass the Sonny Bono Copyright Term Extension Act (SBCTEA), which would extend copyright protection for individuals to the life of the author plus 70 years and protection for works by corporations from 75 years to 95 years. With the backing of the other major companies, Disney was successful in getting the law passed and consequently Disney’s official logo was protected until 2023. This act was dubbed the “Mickey Mouse Protection Act” by Lawrence Lessig, a Stanford law professor, due to the obvious motivation behind the bill’s passing (Mun 3).

One notable difference between the Copyright Protection Act of 1976 and the SBCTEA is the level of opposition Disney faced in getting the law passed. Not long after it passed, the SBCTEA was brought to the Supreme Court by Eric Eldred, a publisher of HTML books from the public domain, who claimed that it violated the “limited times” term of the Copyright Clause in the U.S. Constitution. Although the majority decided against Eldred, he was not alone in his opposition to the SBCTEA. Scholars, politicians, and heads of antagonist industries all voiced their opinions of disapproval about the law (Mun 6). Disney gained large amounts of negative media attention for its clear interference with the government for selfish reasons. Not only does copyright extension deny the public the enjoyment of works at a lower cost, but it also slows the
progress of science and the arts by denying authors and creators access to draw on precedented materials. The “happiest place on earth” began to receive a horrible reputation as a monstrous, tyrannical corporation that advances its own personal agenda, regardless of the harm to the general public and economy, as long as it resulted in a massive profit (Kenny). Disney proved this reputation to be accurate once again when it became one of the largest supporters of the unsuccessful Stop Online Piracy Act of 2012, an act with similar motives to the other copyright laws Disney had already gotten passed. Charles Kenny, a contributing editor to Foreign Policy, shared his opinion that “behind its facade of global goodwill, Disney is playing the evil stepmother to the developing world's entrepreneurial Cinderellas” (Kenny).

Disney was also considered majorly hypocritical, based on the fact that many of the company’s largest successes came from adaptations of stories already in the public domain. *Alice in Wonderland*, Disney’s big hit in 1951, was based on Lewis Carroll’s novel, which was in the public domain since it had been written 86 years prior (Kenny). Had the Mickey Mouse Protection Act been in place at the time, Carroll’s estate would still own the copyright to it, and Disney would never have been able to produce *Alice in Wonderland*. This hypocrisy only added fuel to the fire for Disney’s declining reputation, a reputation that has largely stuck with the Disney corporation to the present day. However, Disney may be trying to combat its poor reputation by releasing its most successful movie of all time.

A turning point for Disney’s reputation began with the 2013 hit *Frozen*, which quickly became the highest grossing animation and fifth-highest grossing film in history. Ironically, *Frozen* is based on Hans Christian Andersen’s story *The Snow Queen*, which Walt Disney had put into development in 1939 (Leonard). *Frozen* appeals to all ages and demographics, and its presence can be felt everywhere. There are many possible aspects of the movie that led to its undeniable success, including the relatable main character, exploration of the sister-sister
relationship, humor, powerful females, and lack of controversy. However, there is also a large chance that the movie was so successful because of how progressive it was. Disney flipped its normal plot path completely: the handsome prince is evil, both leads are female, magical powers are perceived as good, and a selfless familial act saves the day rather than true love. The film was a prime topic on all different forms of media for months after its release, with stories ranging from its record-shattering popularity to the stance Disney may or may not have been taking on gay marriage.

The characters, plot, and subliminal messages of *Frozen* were not the only things progressive about the hit movie; Disney’s approach to copyright infringement that ensued from the release is very different from the road it has taken in the past. Straying from the company’s notorious reputation as copyright police, Disney consciously allowed and supported fan created work inspired by *Frozen*. This started a whole new chapter for the corporation that involves record profit and most likely a better reputation. On YouTube, there are more than 60,000 fan-made versions of the movie’s most popular song, “Let it Go,” and thousands of videos of other fan-created content including song covers, parodies, make-up tutorials, and fan fiction (Leonard). All of these videos were posted without Disney filing suit for unauthorized covers, appropriation of characters, or any other illegal violations of intellectual property protection.

Not only is Disney not enforcing copyright, it is actually promoting copyright infringement in some cases. In March 2014, Disney purchased Maker Studios, the largest content network on YouTube. This company promotes grassroots creativity but does not control its affiliated channels, and therefore does not have authority over the artists’ use of copyrighted material. Disney previously would have been highly against a company like this, but the corporation has changed its ways. Writer Andrew Leonard explains this change, saying, “Although Disney once viewed YouTube with alarm, the company now seems to realize that
fan-created content — even in cases where that content is generating revenue that is not captured by Disney — is cross-promotional marketing that money can’t buy” (Leonard). This free marketing is a large reason that Frozen was so wildly popular; without fear of copyright, fans were able to take the movie they love and interact with it - spreading Frozen’s reach and influence across the world (Osterndorf).

The company took a big risk in transforming its approach to copyright, but it proved to be the right choice. In the digital-centered culture of today, supporting remixes and creativity proved not only to be a smart strategy for improving the company’s poor reputation, but it also turned out to be an excellent economic decision. In the second financial quarter of 2014, after giving fans more freedom and purchasing Maker Studios, Disney achieved record high earnings (Leonard). Embracing YouTube and allowing fans to experiment with characters and movie clips does not mean the whole process involves illegal activity; in fact, many times the producers of fan-created work are the people buying the real product originally. Frozen holds the record for most Blu-Ray sales and most legal digital downloads of a movie ever. Disney took faith in its fans, trusting them to create works but not to abuse the freedom or deprive the company of profit. This decision turned out to be hugely successful for Disney, largely due to its awareness of the remix culture of the present digital age.

Despite the changes Disney has already instated, it has not completely moved away from its strict, police-like reputation. In September of 2013, Disney sued a Pennsylvania theater company for hosting a show that featured many of Disney’s most iconic characters. The digital age is pushing Disney to be more accepting of fan-created work that can promote the company, but it is not accepting of all instances of copyright infringement, especially ones that can hurt the company’s image or provide benefit to the corporation. Where exactly Disney has drawn the line between fair use and copyright infringement is unclear, but it seems it will allow works that
function as good advertisement and crack down on any work that is harmful to Disney’s image or comes too close to simple piracy.

After decades of being strict copyright enforcers, Disney earned a horrible reputation as a corporation that denied complete access to the public domain for its own gain. One movie is changing that all: *Frozen* has transformed Disney and its approach to copyright infringement. This change has proved to be greatly beneficial not only to Disney’s reputation but fiscally as well. Leonard sums it all up, saying, “Disney’s expertise in nurturing, co-opting and, most of all, *not cracking down* on the many ways fans have embraced ‘Frozen’ online is a template for how to thrive in a digital, copy-promiscuous, consumer-empowered environment. Disney, long one of the fiercest and most powerful defenders of strict intellectual property control, has learned how to let copyright go.”

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