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Copyright, Fan Content, and Complications Therein

Various creative works are published and put out into the open by creators, who may or may not have deals with traditional avenues of circulation, who may be creating for the sheer joy of it or just for laughs. Some might consider the point of creating to be the circulation of those creations, to show them to others and to share them across normal boundaries. Others may create for their own enjoyment or enrichment. Traditional publishing is a large industry, the film and TV industries even more so, and there is no shortage of creative content available for people to enjoy and transform through fanworks, headcanons, or alternative mediums. When the rights of the author are compared to the rights of the fans, there is no strictly defined boundary. The closest thing that comes to such a defined boundary are copyright laws, which have been argued over in various courts from case to case, whether the subject in questions is a theme, an idea, a few sentences lifted from a page, a franchise, art of an existing character, or any other piece of media. This piece is an exploration of the boundary between creators and fans, identities that frequently blur together, and where that boundary is being tested by popular culture as well as the ethics of transformative works and the current copyright culture. In exploring everything from fanfiction to TV shows to movies to headcanons, this paper reviews how copyright has affected culture.

Most of the creations this piece focuses on are various forms of genre fiction, as this is the area where the boundary between the creators and the fan creators has blurred as authors and fans interact in increasingly open and diverse spaces. In exploring those boundaries, it is easy to find many, many lawsuits, complications, and cases of creators versus fans, creators versus creators, and even corporations versus creators and fans. Copyright, comprising the legal systems put in place to protect intellectual property, “is an ongoing social negotiation, tenuously forged, endlessly revised, and imperfect in its every incarnation.” (Letham, 63), and it is a continual cycle of creation and regulation. With the internet, “the ordinary ways in which individuals create and share culture fall within the reach of the regulation of the law, which has expanded to draw within its control a vast amount of culture and creativity that it never reached before.” (Lessig, “Free Culture,” 8). The waves of fanworks that follow significant characters, events, books, movies, and more are all parts of the new ways that culture is created and shared in modern times, and this inspires the complications between corporations that own intellectual property and the people who are actually creating content.

Transformative fanworks such as fanfiction and fanart are allowed by the fair use language of current copyright laws (“Understanding Fair Use”), and this is the umbrella under which organizations like the Organization for Transformative Works (OTW) work. OTW is “against the commonly held notion that fans’ appropriation of copyrighted material infringes intellectual property laws, and its investment in preserving the specificities of ‘fannish economy, values, and creative expression’” (OTW qtd. in Lothian, 543). This fannish economy involves a lot of work. The production of book-length fanworks is surprisingly frequent across the medium (some people have even turned their writing into a career because of how popular their fanfiction

was) and professional-quality fanworks are produced frequently. Most of the creations this piece focuses on are genre fiction, as more fan-created content centers around that rather than literary works. As most fandoms are based around these fictional spaces, it follows that this work of studying the boundaries between creators and fans who are also creators would center in those genre spaces.

Who Gets to Participate, and How?

Fandoms are made up of those who are fans of franchises, TV shows, characters, tropes, and more, and those fans in turn may create their own content within that fandom. Fanfiction is a type of fictional work of about a TV show, movie, book series, video game, or other creative media that feature characters from those works. The longest work of literature is a fanfiction that is based on the video game Super Smash Brothers Brawl, currently clocking in at 4,102,328 words (Romano). Fanfiction takes the canon works of media (collections of works that are acknowledged as the ‘true’ works, following along the lines of intellectual property) and adjusts them in any variety of ways. Fans create headcanons (ideas or works that they believe are or should be true of the greater works they are based on, and interpretations of a fictional universe accepted by fan(s), that are not found or supported in canon) to write fanfiction about. Popular spaces for fans to publish fanfiction include Fanfiction.net and Archive of our Own (AO3), a site that “offers a noncommercial and nonprofit central hosting place for fanworks using open-source archiving software,” that is run by the Organization for Transformative Works (“About the OTW”).

Fanfiction is not necessarily a non-profit venture. Some writers may take commissions from fans to write certain stories or sell them at convention centers as zines or comics. One fan of the Twilight series, E. L. James, wrote fanfiction, then turned around and, after some heavy editing, published it. Now, James, author of the Fifty Shades series, “is the most commercially successful fanfiction author of all time” because of her fanfiction (Cuccinello). For James, fanfiction became a career. She successfully published one of the biggest sellers in romance, and it all started because she wanted to write about two popular characters from another author’s books. James isn’t the first author (nor will she be the last) to earn money from fanfiction. Author Cassandra Clare’s popular *The Mortal Instruments* series was Harry Potter fanfiction that she changed in a similar fashion (though she was subsequently accused of plagiarism by some members of that fandom). While the current culture of publishing fan-works is said to have started back with *Star Trek*, as fans would write “slash fiction” about the partnership of Kirk and Spock (Reich), fanfiction and fanworks have been a part of culture for a long time. Authors like Lois McMaster Bujold and Diane Duane (who also has published in-canon, officially sanctioned *Star Trek* books since) got their own starts writing fanfiction of the popular series before their original work was published (Cuccinello).

The legitimacy of fanfiction is frequently questioned. According to Aaron Schwabach, fanfiction represents a major dilemma for content owners, because “while fan fiction may infringe on the content owner’s copyright and trademark rights, the fans who create and share it are the biggest...market for the owners’ works. Active enforcement of intellectual property rights may alienate consumers—fans—and harm future revenues. On the other horn of the dilemma, some rights-owners fear non-enforcement of those rights may result in their loss.” (Schwabach,

1). Without the fans, content owners would have no means of distribution, revenue, or continuing success. By allowing fans to continue to derive their own content from works, and to interact with each other about that content, the people who own the original content benefit. The original content is further built upon and transformed until newer things emerge, and the whole creative cycle continues.

As mentioned above, the most well-known spaces where fans can publish their works are Fanfiction.net and AO3. Fanfiction.net was launched in 1998 and has over 10 million registered users, while AO3 was launched in 2007 and is maintained by a fan-created, fan-run, non-profit organization that promotes the value of fanworks and believes strongly in the transformative aspects and possibilities of fanfiction. These websites are spaces for fans to interact and create content, leave feedback and “kudos” on works, and enjoy more stories in their favorite fandoms. There are over 4.5 million works on AO3’s servers (Busch), and the hosting and archival system earned AO3 a Hugo nomination for Best Related Work. In these spaces, almost anyone can publish their fanfiction. You just have to be a member of the website, have a fanwork and the desire to publish it, and an internet connection.

That same internet connection is all someone needs to read the millions of other works on the website. The internet has been “accelerating the rate at which those works reach an audience,” (Schwabach, 14), because while a traditionally published work takes time, and possible copyright issues can be addressed before publishing, fanfiction online can be published instantly. There is no way for all of that content to be studied for copyright infringement, but there are cases of cease and desist letters being sent to hosting sites in an effort to remove certain content from their sites. Content owners have a right to protect their income, but it does rely on

the balance between those who own their content and have the money to defend it, and those who don't. And fans rarely make any significant amount of money off their fanworks, even if they are selling at conventions or in online stores, taking commissions for stories or art pieces. It is incredibly difficult to be a successful creative worker, and even more difficult to do so through traditional venues like publishing houses or production companies.

In a fan-run survey of AO3 authors, the majority of fanfiction writers were found to be women (centreftheselights). This may contribute to the devaluation of that type of work. The reality is that this type of work is written by fans, for fans, and that most of those fans are women. Camille Bacon-Smith, quoted in a Vox article "Why We're Terrified of Fanfiction," said that "women, who traditionally spend large portions of their lives working in relative isolation for little or no pay, bring a different set of motivations to their writing and art. They want to talk to other women, to express themselves in the...form that until recently has all but excluded them. The writers cannot sell their work, but they don't have to meet commercial criteria for success either: they must please only the predominantly female...fan community." (Bacon Smith qtd. in Grady). According to Grady's piece, society has decided that since fandom is dominated by women, it is lesser, and that "culturally, we find young women terrifying." Their domination of fandom spaces and their transformative works have led to millions of fanworks and conversations surrounding popular media, that can broaden and reinvigorate creativity. Now, it has confirmed Lessig's own belief that "digital technologies, tied to the Internet, could produce a vastly more competitive and vibrant market for building and cultivating culture; that market could include a much wider and more diverse range of creators; those creators could produce and distribute a much more vibrant range of creativity." (Lessig, 9). The freedom of the internet has

allowed more female creators to express themselves online and create millions of fanworks that have influenced their fandoms and fan culture.

Bacon-Smith's quote above specifically referred to the greater *Star Trek* fandom and the women that sustained the show through its early years. *Star Trek* is a great example of a long-lasting fandom whose existence was made possible by the massive fandom it inspired, and of how only big companies can utilize copyright to their advantage. Beginning in the early 70's, fans created zines that contained art, poetry, stories, and more and distributed them by hand. Gene Roddenberry, the creator of *Star Trek*, felt that fanfiction was a huge benefit to creators, and to his own creation (Reich, Schwabach, 9). Roddenberry's views are not shared by the current owners of the *Star Trek* franchise—Paramount Pictures sued fan creators for their production of *Axanar*, a prequel movie to *Star Trek* franchise that raised over one million dollars in a crowdfunding venture. The legal battle ended in a settlement that strictly limits the creative freedom fans will have in creating such productions in the future (Liptak). On the other end of the spectrum, there is currently one *Star Trek* show airing on CBS All-Access (*Star Trek: Discovery*) and another, distinctly similar space-based show airing on Fox (*The Orville*). But despite Paramount's dedication to lawsuits, and the distinct similarities between the two, Fox isn't too worried about being sued. According to CEO Dana Walden, the show "clearly pays homage to *Star Trek*," and goes on to say "Most shows have some DNA of previous shows. There are very few shows that I've worked on that weren't slight reinventions of something that's come before it." (Hibberd). *The Orville* is a more comedy-focused drama than its official *Star Trek* counterpart, and certainly does seem to pay homage to the forms of *Star Trek*.

Here, it makes clear the line between fan creations and works that come from large entertainment corporations. Fox has a big legal team and lots of money; even if CBS did decide to sue, Fox would be able to put up a legal defense and play it off as a pastiche of the larger *Star Trek* franchise. But for the fans that are trying to create *Axanar*, the legal battles, and the ultimate settlement, means that they are restricted in what they can and cannot create. Paramount Pictures has also previously allowed traditionally published fanfiction; two *Star Trek* anthologies were released by Bantam Books, which contained reprint fanfiction from early zines. It seems that as long as money is involved, it is easier to legally use or publish existing content.

In more creative forms of media, audience members are expected to participate in the creative process. In theater productions like “Tony n’ Tina’s Wedding,” the audience members become the guests at the wedding, eating food and enjoying the show as the performers pull them in for improvisations and scenes. In the recent Broadway hit “Natasha, Pierre & the Great Comet of 1812,” audience members are given shakers (sound-makers) and encouraged to be part of a big music scene, lucky audience members who are sitting on or near the stage are given letters from the cast members at the beginning of act two, and one audience member is pulled up onstage to give a letter to an actual cast-member during the performance. This form of participation theater pulls in the audience and makes them part of the production but isn’t governed by the same copyright rules as other traditional media. But some shows can go too far in the name of interactivity—the production of the “Hamlet” adaptation “Sleep No More” was sued by an audience member who claimed she was knocked unconscious by an actor during a performance. The play was an interactive experience that takes place throughout five floors of a hotel, where audience members were given masks and encouraged to interact with actors and

scenery (Marsh and Rosario). But despite the apparent threat of physical harm, theater continues to grow and create interactive productions. And because each performance of an interactive production is different, it raises some interesting questions about the nature of continual copyright. The production has the rights to the script and the performance, but should they have the rights to the audience responses or interactions with their performance? The Copyright Act maintains that performing a work "means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible," and mentions nothing about the audience ("Copyright Law..."). The law, therefore, does not protect the production from taking the nature of the audience's interactions and permanently incorporating them into the show. While it is highly unlikely that any member would sue in the event that their interaction is made a permanent part of the performance, it is still a possibility. Interactive theater brings up questions about the nature of theater and the nature of audience participation in creative mediums.

Interactions Between Creators and their Fans

While the theater example detailed above is a direct interaction between actors and their audience, the subject merits a return to the interactions directly between creators and their fans. While some authors encourage fanfiction, like Roddenberry did for his *Star Trek* audiences, others fight against it. Recently, prolific science-fiction and fantasy author Seanan McGuire received a message on Tumblr, a popular blogging platform where some creators interact with their fans, people post original and fan content, and more. In the message, a fan shared their

headcanon about a comic book character that McGuire is writing for at the moment, Spider-Gwen. McGuire has previously shared her views on how she does not want to see any fan headcanons, and this most recent trespass of her explicit boundaries has sparked a renewed conversation around the rights of creators in public spaces.

McGuire's views echo other prolific authors like Anne Rice and George Lucas. On Rice's website, there is a message that states "I do not allow fan fiction. The characters are copyrighted. It upsets me terribly to even think about fan fiction with my characters. I advise my readers to write your own original stories with your own characters. It is absolutely essential that you respect my wishes." (Rice). Rice is in the extreme—she doesn't want any fanfiction written about her characters. Meanwhile, authors like Neil Gaiman and *Calvin and Hobbes* creator Bill Watterson, have less strict boundaries. For Gaiman, people are free to think what they wish, and create fanfiction, as long as they acknowledge that the works are the intellectual property of the original author, and they don't try to make a profit off them. This position is one that may raise some eyebrows, as Gaiman once contributed a short story, "The Problem of Susan," based on C. S. Lewis's *Chronicles of Narnia*, to a for-profit anthology. And Watterson, who refused to license his popular comics because he felt that "to license Calvin and Hobbes would ruin the most precious qualities of my strip and, once that happens, you can't buy those qualities back," hoped that his work would be maintained without commercialization. Roddenberry fit this same category, with his exuberant support of fanworks, and the relationship with fans became more about the delicate balance of creator's works and fanworks, and how one derives from the other.

Jonathan Letham refers to this as "a balancing act between creators and society as a whole; second comers might do a much better job than the originator with the original idea."

(Letham, 63). The idea that fanfiction can transform an existing canon, and possibly add value to the literature, is not universally accepted. It brushes aside the stricter notions of copyright and suggests that fanfiction and other works should be allowed on the principle that they inspire future works. Some creators have strict boundaries with their fans; they encourage people to buy their works but discourage fans from using their intellectual property in fanworks. This may be because “few authors want to risk poisoning their relationship with fans, and thus their livelihoods, unless the fans, through their works, are also threatening the author’s economic well-being.” (Schwabach, 5). But if current creators are, as assumed here, inspiring the next generation of creators, it would follow that copyright should be lax, and creators should take that into consideration before they publish their content. Lessig suggests that “creators here and everywhere are always and at all times building upon the creativity that went before and that surrounds them now. That building is always and everywhere at least partially done without permission and without compensating the original creator.” (Lessig, 29), and there is a need for all creators to recognize that they are now interacting in a digital space that makes “building” a much more interactive and shared process than before.

Some of the issues that arise from the creation of fanfiction are caused by the sexually explicit areas of fanworks. While Fanfiction.net banned NC-17 fanfiction from their website in 2002, AO3 has no such rules, and there are thousands of works of explicit fiction on their site. J. K. Rowling is one of the more prominent voices—her legal team once sent a cease and desist letter to the fanfiction site RestrictedSection.org, asking that they remove all sexually explicit content from their website because there was a “very real risk that impressionable children will be directed (e.g. by a search engine result) to your sexually explicit web site [sic].” (Goddard).

This is a real concern; while AO3 has site warnings for their explicit fiction, it is easy for minors to skip the warnings and continue to the content. Others express similar views; LucasFilm once sued Media Market Group Ltd. for producing a porn parody of *Star Wars*, saying “We feel strongly that the law does not allow for parody to be a defense to a pornographic use of someone else's intellectual property, especially when that use is directed to children.” (Hawkes). While the producers of *Space Ballz* did maintain that their product was not directed to children, and their films status as a work of parody and thus protected by copyright law, it is harder to see the value of it. Derivative fiction of this sort is questionable in value, and it has interesting results when it is portrayed as its own form of creativity.

Complications of Ownership and Commercial Interests

While some characters are considered the intellectual property of a single author, this is not always the case. An actor cast in a movie or TV role can be replaced by another actor, and the portrayal is immediately changed, and the same happens when a movie or TV show is rebooted and that character is recast. Sometimes the children of authors can continue their parent's work, like Todd McCaffrey did with the *Dragonriders of Pern* series after the original author (his mother) Anne McCaffrey, passed away. Ownership is also a contentious subject in the comic book industry, where characters are often passed from writer to writer and artist to artist. While those characters are generally credited to their first writer, each new storyline under and new author can change a character's identity, look, or romantic entanglements, among other things.

Writer-editor Stan Lee and writer-artist Jack Kirby created plenty of iconic characters, from Ant-Man to Magneto to Captain America, and their presence in the comics has been rewritten and adjusted many times over. Captain America even had a brief stint as a member of Hydra, the evil organization of the Marvel universe modeled on the Nazi party, in the Marvel Comics event Secret Empire. This storyline, written by Nick Spencer and drawn by a series of four artists, is among the most reviled of all Marvel comics, and Spencer's characterization of Captain America has been widely rejected (Shiach) and his ownership over the character was swiftly removed. The mantle was passed to Ta-Nehisi Coates, who has since revitalized the character and taken the comics in a new direction. While this sort of ownership is expected in the comic industry, it is harder to see this in your average fandom. Characters belong solely to the person who created them, unless they are owned by an entity like a company. Disney owns their characters, (including those from the Marvel universe, since they bought the company in 2009 for four billion dollars) and the people they hire for their productions do not. This is possible because of the work for hire clauses of copyright law, which "transforms the employer into not only the owner but also the legal author of his employees' work." (Baldwin, 14). Lawsuits often pop up around creative interests that are owned in this manner. At any given moment, the rights and terms of copyright are being argued over in specific cases—currently, *Stranger Things* creators Matt and Ross Duffer are heading to court because they are being accused of stealing the idea for the show from another creator (Gardner, "*Stranger Things*' Creators..."). This case will be closely followed by creators, because of the potential upheaval of an extremely popular show. The financial aspects of owning content and the characters within it are potentially lucrative and are often an additional source of revenue for creators, which also greatly affects the relationships

between those creators trying to make a living and fans trying to profit from their derivative works.

Despite the law that rules copyright, those with the money can more easily defend the purity of their creative content against fans. For Lessig, it all depends on the resources. He acknowledges that “costs are the burdens of a kind of regulation,” (Lessig, 104), and that burden lies strictly on the creators who may not have the resources to entertain their own creativity because the costs are too high to clear the use of previously existing content. And on the flip side, the privilege of defending that creatively cut-up content against others also comes with a cost, and the financial ability to pay a lawyer to defend your rights to fair use is a privilege reserved for only a few (Lessig, 106-107). Lessig’s argument is that the industry of sampling works, and transforming existing content into new forms, is only for those with the money to do so. Initially, “the focus of the law was on commercial creativity.” (Lessig, 8), and the law supports those who are making money off their creations on the free market.

Writers like George R. R. Martin, J. K. Rowling, or creators like J. J. Abrams or Peter Jackson, among other creative powerhouses, have the money to defend their content and their copyright. Official licenses are bought or offered for profit, TV shows or movies are made that make billions of dollars, and the creative cycle continues until the next big thing is found. Meanwhile, it is harder for smaller creators and those who create genre works to defend their own works against others, because “genre writers depend less on mainstream media reviewers...and more on word-of-mouth (or, more accurately, online) recommendations,” (Schwabach, 7). Their sales numbers depend on their audience, and their relationship with that audience. Some creators, like writer Sam Sykes, play up the absurdity of their life with a

highly-interactive Twitter presence, while others, like writer Beth Cato, may choose to focus on recruiting people to their mailing lists or Patreons by offering incentives like tasty recipes. Thus, the line drawn between regenerating, monetized interests and fanworks is shakier here than in other spaces. While some creators are supported by a network of branding, agents, money, and laws, others find their space in creative niches and work towards getting their own content on the market by other means.

Derivative works are increasingly common, whether they are fanfiction, fan art, or other fanworks. Fair use is a fuzzy, unclear, and easily defeated concept in the courts by those with the legal resources, and it is harder to argue that content is in any way pure. Copyright favors creators, as it is intended to, but creating for financial support is trickier in the digital age. When something is posted online, it enters an interactive sphere similar to how interactive theater works. Digital content is reworked, copied, transformed, and recreated. In the case of Instagram poetry, and the rising stars of rupi kaur and Nayyirah Waheed, a new style of poetry has evolved to fit the digital platform. While plagiarism charges are thrown between the two, there has not been enough of a charge to cause a legal battle, and their work is inspiring new creators across the world (Khaira-Hanks). Both creators have gone on to publish books, further monetizing their platforms, and their form of poetry has been adopted by other creators, many of whom are successfully monetizing their creative efforts. In this struggle between creators, it is hard to define who has a right to say that the content they post online is theirs. If the form of content can be reworked the instant it is published online, it almost doesn't matter who owned it originally. Instead, the collective ownership (and thus collective value) threatens monetization efforts and the futures of creators.

Creators are not necessarily in their industry just for financial gain, but it is an area that is governed by certain privileges. If creators are financially supported, they have more time and money to create content. But if a creator loses their financial support, or even the creative and intellectual properties that were their financial support, they then lose the ability to create new content. By maintaining certain rights, copyright ensures that creators can continue their trade, which implies that fans should not have total freedom to use a creator's intellectual property.

Conclusion

A multitude of lawsuits have been filed against fans, creators, and corporations, and combinations thereof. The blurry lines between creators who have copyright, and creators who use that copyrighted content to inspire their fanfiction, original content, and is hard to get a grasp on. Now would be a great time to look at existing copyright laws and update them to accommodate for changing standards, internet use, and new creators. Lessig maintains that “we have become so concerned with protecting the instrument that we are losing sight of the value,” (Lessig, 19), and this paper echoes those sentiments. Because of the sheer amount of legal footwork and the confusing circle of ideas, it is harder and harder to regulate creativity in a way that still allows for the free flow of ideas. All creators need to open themselves up to the idea that a real interaction with their audience means that other people are allowed to be creative with those works. Without inspiration, there is no financial or societal benefit to not letting people be inspired. Everyone should be able to play in the creative sandbox and be inspired by those who came before them and inspire those who come after them. It is damaging potential creators to maintain the strict boundaries of intensive copyright laws, and in such creative, mixing mediums,

it is impossible to expect true intellectual purity and ideological properties moving forward. Lessig puts the idea simply; “Free cultures are cultures that leave a great deal open for others to build upon; unfree, or permission, cultures leave much less. Ours was a free culture. It is becoming much less so.” (Lessig, 30). Current law favors strict enforcement of copyright, because the power to change laws is in the hands of the rich and powerful who profit from their long-standing copyright and trademarks. This is a threat to smaller creators, and the changing landscape of our digital world. In another direction, the current culture of creators versus fans has created a self-destructive feedback loop. Creators are pushing out content, fans are transforming that content, creators are then worried for their own livelihoods, and everything spirals towards a strict permission culture.

Here, there is a need to step back and reevaluate the ideal creative culture that should be fostered in our communities. With the rise of digital production, increasingly strict copyright, and very selective enforcement of copyright that favors larger creators, copyright laws should reflect the shifting tides. The potential social value of loosening these copyright laws and allowing more freedom for creativity far surpasses the loss of creativity that society faces under current copyright laws.

Avenues for Further Inquiry

When authors are given the chance to work with intellectual property from huge companies, like *Star Wars* or *Star Trek*, and influence the existing canon, it brings up the question of how copyright extends to their own work. Do any works that they write automatically belong to the company, rather than the creator? Previous experiences say yes; it is

a form of work for hire, as mentioned earlier and also in reference to Disney. Author Delilah S. Dawson, author of *Phasma*, says that in order to work with that type of existing content with a large company's IP, "You need 5-10 years of a solid traditional writing career with a reputation for writing fast and well, hitting deadlines, keeping secrets, and being easy to work with."

(@DelilahSDawson). But what are the limits of an author's influence of canon? What happens when fan backlash against the published work is too severe? Another author, Chuck Wendig, who has also written *Star Wars* novels, was removed from a comic book he was slated to write after fans complained about his political statements on Twitter. What does this mean for other creators who are public about their political opinions? Does it completely restrict them from working with a company's intellectual property? Is this a sign that fandoms are detrimental to creativity? Where should the line be drawn between the fan's rights to enjoy published content, and the company's obligations to publish content regardless of an author's personal opinions?

Meanwhile, an awkward situation is currently playing out in the romance publishing industry, where powerhouse author Nora Roberts is suing Cristiane Serruya, over allegations of plagiarism. While Serruya is accused of stealing from more than just Roberts's works, Roberts has publicly stated that "It affects the entire industry, and it corrupts a really honorable profession. It makes writers look like hacks." and "A lot of the other writers involved in this, they don't have the money to fight it. I do have the money." (León). Serruya has also claimed that this was not her fault and is instead because she hired a ghostwriter through the freelance writing service Fiverr (Cristiane Serruya qtd. in Ciucci). What are the ethics of hiring a ghostwriter to write novels for you, that you subsequently publish under your own name? Are those authors then responsible for any plagiarism in the resulting works, or does the fault lie on

the ghostwriter? Who owns this mistake? This case will be settled in court, and the romance publishing industry is eagerly watching. Here, the lines between plagiarism and fair use are clearly defined, but where is the line between paraphrasing and fair use? Where do fiction works that are clearly inspired by other works fit in? What about historical fiction that uses the personas of real people? Does this inspire the same level of fair use, or is it a violation of privacy to explore those narratives?

Another, almost more contentious creative space is the music industry. Copyright still applies to the music industry, and its effects are seen everywhere. It wasn't until 2016 that the song "Happy Birthday" was released into the public domain, after Warner Brothers paid out 14 million dollars to end a lawsuit that challenged their claim to ownership over the piece (Gardner, "Warner Music Pays..."). There are thousands of videos on YouTube where people sing covers of their favorite songs, and while some of these videos are taken down due to copyright infringement, not all of them are. Covers don't usually transform the song in any dramatic way, other than changing who is singing the song, and are not covered as transformative works, but they persist. Other struggles emerge when different artists release songs that are modeled after the same beat or sample of music; Vanilla Ice's "Ice, Ice, Baby" and Queen and David Bowie's "Under Pressure" share the same base line. Copyright lawsuits that target music sampling affect more African-American creators, which raises questions about who is allowed to be innovative and creative in the music industry and suggests racially-motivated movements in the industry (Randall). At what point will it be impossible to create new music? Will there ever come a point where there are no beats that haven't been created before, or original bass lines to be played, or

unique lyrics? What will the music industry do when there is no original content to create? What even is original music, if all creative industries are inspired by the work that came before?

In each of these, a different area of copyright is raised and discussed. Copyright law is expansive and oftentimes difficult to fully understand, as well as easily changeable when challenged in courts. This paper explores several different circumstances and creations that copyright laws have affected but is limited in scope. There are yet more issues to explore, and more questions to ask about creativity, that can be addressed with future inquiry.

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