

THE BLOG DEBATE: CHARACTER CONTROL

Since its launch in September 2008, the Marquette Law School Faculty Blog has published about 1,000 posts and 1,500 comments on a wide variety of law-related topics. Posts often generate lively, provocative exchanges. Reprinted below is just such a thread from late last year: a series of posts by Professors Edward Fallon, Bruce Boyden, Gordon Hylton, David Papke, and Richard Esenberg. They are wrestling here with the question whether literary characters deserve copyright protection, but the question takes them into a wide-ranging discussion of cultural history, literature, authorship, and the nature of the creative process.



There is much to learn from the thread, and much on which to reflect. One of the insights that emerges is that literature has always been a public conversation of sorts—albeit not always a very civil one—and every book may be thought of as a sort of sequel to earlier works, drawing on and responding to established genre conventions, character types, plot devices, and so forth. Of course, back in the time of *Don Quixote*, the subject of the first post, the conversation might be very slow to develop. Today, the Internet has dramatically accelerated and opened up the conversation. This has perhaps not been an unqualified advance. As authors strive to be heard above the Internet’s cacophony, it sometimes seems that the inflammatory tone of Cervantes’s attack on Avellaneda (see the first post below) has become more the rule than the exception.

When we launched our Faculty Blog (law.marquette.edu/facultyblog), we hoped that it would be a place for a different sort of public conversation—not only engaging and provocative but also thoughtful, well-informed, and civil. The posts, excerpted below, exemplify precisely this sort of exchange.

—Michael M. O’Hear, Associate Dean for Research

CAULFIELD MEETS QUIXOTE

By Edward A. Fallone

Salinger v. Colting, a lawsuit alleging breach of copyright, has received a great deal of attention because the plaintiff was the reclusive author J. D. Salinger. He sued Swedish author Fredrik Colting in New York over the latter’s book, *60 Years Later: Coming Through the Rye*, a novel in which one character is a 76-year-old Holden Caulfield. United States District Judge Deborah Batts rejected Colting’s argument that his use of the Holden Caulfield character constituted a critical commentary on the Salinger novel, *The Catcher in the Rye*, and therefore fell within the “fair use” exception to copyright infringement. She granted Salinger’s request for a preliminary injunction preventing the publication of the work in the United States. [Salinger died January 27, 2010. — ed.]

Some observers of the case have focused on its unusual grant of the plaintiff’s request for an injunction—this is a rare instance of U.S. law’s allowing a prior restraint on publication. Other observers have debated the intersection of First Amendment rights and copyright protections implicated by the lawsuit. In contrast, when I heard about the case, my thoughts turned to *Don Quixote*.

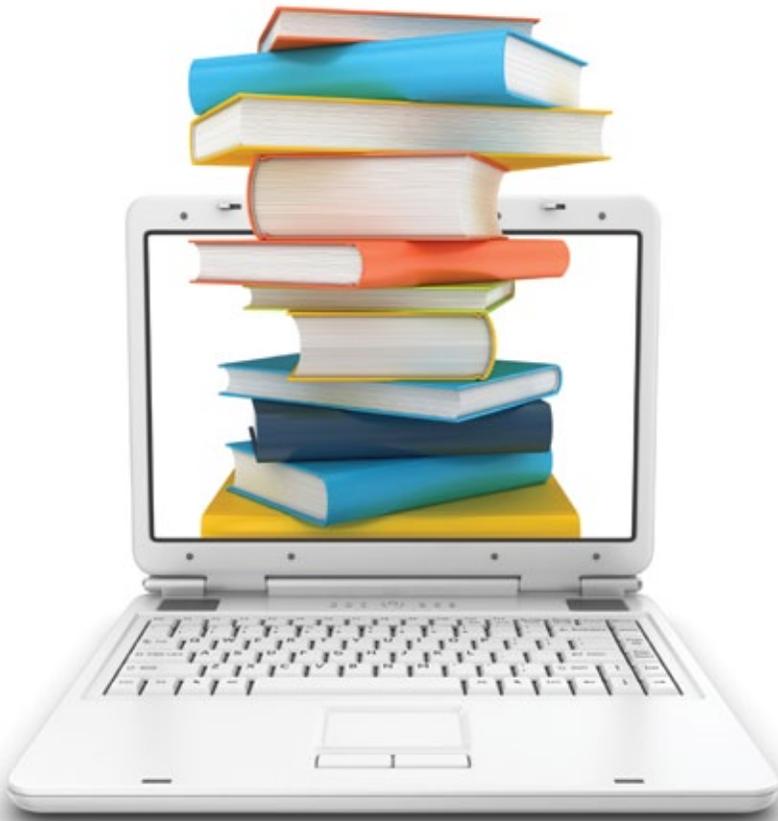


Through the end of the 16th century and into the beginning of the 17th century, the appropriation of characters and plots from earlier authors was a common literary practice. In England, Shakespeare wrote plays that retold stories that had been told by other playwrights, and other authors in turn recycled Shakespeare’s plots. Several different versions of *Hamlet* entertained Elizabethan audiences.

The first copyright laws date only to 1518, and they took the form of a monopoly that granted exclusive rights to a printer to publish a particular text. It appears that copyright law was invented as a way of protecting the nascent printing industry. It originally provided no legal protection to authors at all. However, that would soon change.

The novel *Don Quixote* was published in 1605 by Miguel de Cervantes. It introduced two iconic characters: a comical old man who thinks himself a chivalrous knight errant and his humble sidekick, Sancho Panza. It also slyly critiqued a social order in Spain that was dominated by both unproductive nobles and a repressive Catholic clergy. The book was a huge success, and 10 years later, in 1615, Cervantes published *Don Quixote Part Two* (thus proving that Hollywood did not invent the sequel).

One of the most famous parts of *Don Quixote Part Two* is its prologue, written in Cervantes’s own voice, which contains a vicious attack on a certain Alonso Fernández de Avellaneda. It seems that



in the ten-year interval between the publication of parts one and two, Avellaneda had published his own continuation of the adventures of Don Quixote and Sancho Panza. In his prologue to part two, Cervantes insults Avellaneda without mercy.

The brutality of Cervantes's verbal attack, and its literary quality, transformed Avellaneda's own version of *Don Quixote* into an obscure historical footnote, forgotten by all but the most determined students of Spanish literature. Ironically, a close reading of Avellaneda's much-ridiculed work demonstrates that it has real literary merit in its own right. In particular, Avellaneda's version patronizes the character of Don Quixote and treats him as clearly insane, thus impliedly rehabilitating the portrayal of the existing social order in the first book and defending it from a damaging critic.

Miguel de Cervantes's written attack on Avellaneda's use of his characters was unprecedented because it portrayed the derivative work as an intentional injury to the original author. Moreover, the severity of Cervantes's indignation suggested to the reading public that the harm Cervantes had suffered was very real. People began to think about the rights of authors to control the use of their characters in a different way. In 1709, the Statute of (Queen) Anne for the first time gave authors a legal monopoly on the reproduction of their work for a set period of years. Thus was born modern copyright law.

So what is wrong with giving authors the right to control the use of their characters? Copyright law is intended to provide an economic reward to the original creator, by granting him the legal right to prevent the use of his characters in ways that might diminish their value. However, copyright law comes with an associated cost. The fact that Fredrik Colting's novel may never be published in the United States illustrates that cost. All of us bear the opportunity cost of all the derivative acts of creation that will never take place as a result of granting copyright protection to the original author.

It is true that some derivative uses of someone else's characters are allowed, notwithstanding copyright protection. Parodies and critical commentaries using established characters are permitted under the First Amendment. However, this seems like an almost arbitrary exception to the original creator's exclusive right to control his characters. Other derivative uses of an established character can enrich our common culture as much as a parody or a critical analysis.

Why allow someone else to write a parody of *The Catcher in the Rye* but prohibit a Holden Caulfield sequel? The sequel might be puerile trash, but it just might be a masterpiece in its own right. Why not allow a third author to write a Holden Caulfield opera? Or a ballet? I doubt that people would stop reading *The Catcher in the Rye*. In fact, the sales of Salinger's novel might increase.

“Every act of creation should be viewed as a gift from one person to all people. . . . It is only if we view the act of creation as a ‘sale’ from the author to the rest of us that it makes sense to allow the author to place conditions on the use of his creation. This is the crux of the problem.”

One answer is that it is unfair for others to use Salinger's character in order to make a profit for themselves. But existing law allows some exceptions for parodies and critical commentaries that can earn a profit for their authors. In addition, the law now extends the life of copyright protection beyond the life of the creator. In light of this fact, it is difficult to argue that the protection of the creator's exclusive ability to enjoy the monetary benefits flowing from his creation is the primary concern of the law.

Every act of creation should be viewed as a gift from one person to all people. Should J. D. Salinger have the right to gift our culture with an iconic character and, at the same time, claim the ability to dictate how this gift can be used? Even if his gift is misused or abused by others, Salinger has no moral basis to complain.

It is only if we view the act of creation as a "sale" from the author to the rest of us that it makes sense to allow the author to place conditions on the use of his creation. This is the crux of the problem. Over time, the existence of copyright law has commodified the act of creation. It is no coincidence that this process began in 1518 with the technological innovation of the printing press. The commodification process accelerates with each new technological advance.

In our digital age, every consumer can purchase and enjoy a vast universe of cultural artifacts at the press of a button. However, rarely do we spend any of our time engaged in the act of creation itself. Most of us spend little or no time each day playing music, telling stories, or painting pictures. Why should we bother, when it is far more convenient to purchase the creations of others? The irony is that we are increasingly surrounded by our culture, but at the same time we are increasingly alienated from it. By treating the creative act as a commodity, copyright law has facilitated this trend.

The key to profit in a service economy is to convince the public to pay for something that they used to expect to get for free. We didn't always pay such a high price for our culture. The "fair use doctrine" once permitted a broad use of another author's creations so long as no monetary benefit was received. The initial success of Salinger's lawsuit demonstrates how narrow the fair use doctrine has become. Like the western prairie before it, the "public domain" is slowly being fenced in and parceled out to the highest bidder.

It doesn't have to be this way. We should eliminate copyright protection for literary characters. If J. D. Salinger feels that his beloved character has been ill treated by others, then he can always respond in the same way as Miguel de Cervantes did: he can publish his own sequel. Like Cervantes, Salinger can even include a vituperative attack on the upstart artist who has offended his creation.

If the public sees no merit in Colting's creation, then Colting's book will soon be forgotten. However, let the rest of us decide for ourselves whether there is real merit in Colting's creation. Copyright law, as it is now structured, allows one artist to deny each and every one of us the possibility of other worthy works of art.

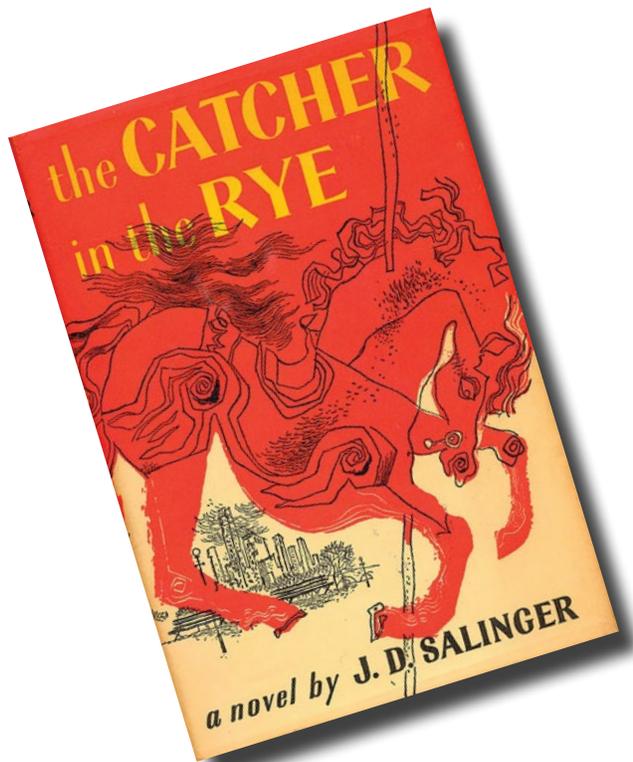
THE WINDMILL'S REPLY

By Bruce E. Boyden

Cervantes's reaction to the implicitly critical sequel does seem like an important moment in the development of the idea of the fictional author as master of his or her creation. However, I also want to offer a contrary view on a couple of points that Ed raises. To begin, Ed concludes that copyright's commercialization of creative works is a problem. One solution, Ed proposes, is to eliminate copyright protection for literary characters. I disagree with both sides of this equation. There's an emerging problem with copyright law, but it's not commercialization of creativity. Commercialization of creativity is the entire reason copyright law exists. And eliminating copyright protection for sequels across the board would create far more problems than it would solve.

First, the nature of the problem. As Ed explains, there's a tradeoff involved in the copyright system. One of the purposes of copyright (some would say the only purpose) is to incentivize the creation of new works. ▶▶





Copyright does this by creating a property right in the works that result. There are some costs, however. One cost is that there will be some works that would have been created and distributed without any copyright protection at all, and yet public access to those works may be restricted. And for those works that would not have been created or distributed but for copyright or some other means of public support, there's an offset against the benefit—namely, that not all uses of the work will be possible for the duration of the copyright (which is now extremely long).

Ed writes, “It is only if we view the act of creation as a ‘sale’ from the author to the rest of us that it makes sense to allow the author to place conditions on the use of his creation.” That’s true. It’s also the entire point of having copyright in the first place. The copyright system rejects the notion that every act of creation is a gift. It creates a market for acts of creation in order to allow large numbers of small benefactors to pay for works *ex post* as opposed to *ex ante*. This system might seem onerous now, but it’s worth comparing it to the system it replaced: support for artists from wealthy patrons. A legal system that gives the option of support from a broader array of people allows a greater number and diversity of expensive works to be created.

Of course, this doesn’t tell us where to draw the line between acts that infringe on the owner’s

copyright and acts that don’t, and Ed is not alone in proposing that the line should be drawn particularly close to verbatim copying. But I do not think Ed’s proposed solution is workable. Character copyright is an incredibly vexing issue.

Copyright is supposed to vest in works, and characters are not works; they are pieces of works—sometimes pieces of several works in which the character has subtly evolved from one work to the next. When confronted by one of these multiwork characters, it’s difficult to say what exactly is being protected, which has perhaps led courts to essentially throw up their hands when considering such questions. It has also, I think, led Congress to shy away from allowing the first versions of any modern cultural icons from entering the public domain. No one knows what would happen. But the Salinger case is not just about the use of a single character in a new work; it’s about a sequel—a classic example of a derivative work. The question here is whether there should be any exclusive right to prepare derivative works at all.

It’s pretty clear that the ability to control sequels and adaptations is part of the incentive package for modern creators of works. Hollywood studios somewhat notoriously look for, at least in certain genres, scripts that will generate a whole series of films rather than just one. Many authors intend to write an entire series of books, or sell the film or television rights, or both. J. K. Rowling was in part spurred on to complete the first *Harry Potter* because she knew she had six more behind it if it did well. Songwriters expect revenues from anyone who records their song, not just the first person.

It’s worth noting that patents have a different system: a patent owner does not own all follow-on inventions. Copyright’s different take on follow-on works, I think, reflects a recognition that the authors of fictional works create not simply single works but entire universes. Works without their own universes, such as music, databases, or histories, enjoy much less expansive derivative works rights. Your history of the First Battle of Bull Run gives you no rights to a history of the Second Battle of Bull Run.

This policy of awarding exclusive rights in follow-on works to authors actually works to the advantage of smaller authors and distributors. Without it, larger players could simply wait to see what books or movies seemed to do well in small markets, then flood

much larger markets with sequels and adaptations. Indeed, they would have an incentive to do that.

The Salinger case is an odd one for defending the derivative-works right, because Salinger is hardly a typical author. Salinger seems to be fighting not to preserve his ability to write a sequel, but to preserve the option of having no sequel at all. But the justification for derivative-works rights is that most authors are not going to be like Salinger. Most are going to write sequels, or at the very least authorize others to write sequels, when their universes catch on. Sure, there's a risk of curmudgeons like Salinger, but it's a low risk, one worth bearing in order to keep the rule (exclusive rights in derivative works) relatively simple.

LOOKING BACKWARD AND THE FALLONE-BOYDEN DEBATE

By J. Gordon Hylton

The post-publication history of Edward Bellamy's 1888 utopian novel, *Looking Backward, 2000–1887*, speaks to the issue at the core of the Fallone-Boyden debate. My two colleagues disagree over the desirability of copyright protection for literary characters and the proper resolution of the recent legal action filed by J. D. Salinger against the Swedish author of a sequel to his novel, *The Catcher in the Rye*. Ed Fallone opposes protection, and Bruce Boyden supports it. On this issue, I'm with Ed.

Looking Backward is the story of Julian West, a man who falls asleep in 1887 at a time of great industrial strife and wakes up in the year 2000, when the problems of industrialism have been solved by a collectivist government that manages all industrial production for the benefit of society as a whole. At the time of the book's publication, Bellamy was a 38-year-old writer and one-time lawyer from western Massachusetts. *Looking Backward* quickly turned out to be one of the best-selling books written in the United States in the 19th century, selling several hundred thousand copies in

the years immediately following its publication. It was translated into dozens of different languages and was also a publishing sensation in Europe.

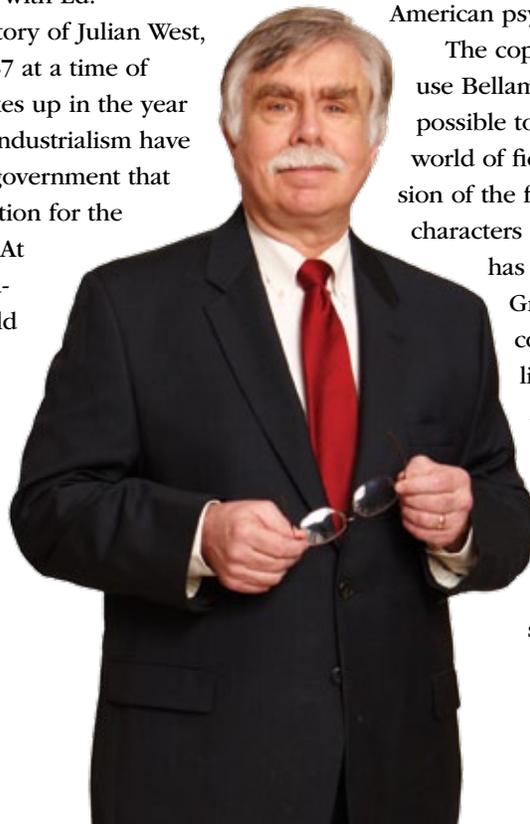
Novels by other writers continuing the story of Julian West in the 21st century began to appear almost immediately. Some of these sequels embraced Bellamy's vision of the future, while others sought to paint Bellamy's future as a dystopian nightmare. According to literary historian Krisham Kuman, at least 62 novels based on *Looking Backward* were published in the United States between 1888 and 1900. All of the sequel writers made use of *Looking Backward's* story line, and most employed Bellamy's main characters. As far as I can determine, none secured a license to do so from Bellamy.

Bellamy himself reentered the fray in 1897 with his own sequel to *Looking Backward*, entitled *Equality*, in which he addressed many of the issues raised by the authors of the less-than-sympathetic sequels, including the future of education and women's rights. Unfortunately, Bellamy's own sequel was not nearly as successful as the previous volume, and he died of tuberculosis the next year at the age of 48.

Although the pace slowed in the 20th century, there were almost one hundred *Looking Backward* sequels, prequels, and reimaginings published after 1900, apparently culminating in the off-beat *Edward Bellamy Writes Again*, a 1997 novel by New Age Christian writer Joseph R. Myers, who sought to combine the insights of Bellamy with those of the American psychic Edgar Casey.

The copyright point here is that the ability to use Bellamy's story line and characters made it possible to have a rich, ongoing debate in the world of fiction over the merits of Bellamy's vision of the future. Had Bellamy tried to control his characters in the same manner that J. K. Rowling has controlled Harry Potter and Hermione Granger, or J. D. Salinger wishes to control Holden Caulfield, the intellectual life of late 19th- and early-20th-century America would have been much less rich.

As someone more interested in a better world than his own financial enrichment, Bellamy was no doubt delighted that his novel had inspired so many of his supporters and his





critics to continue his story. Legal protection against verbatim copying of the text was enough for Edward Bellamy; I don't see why it shouldn't be enough for Miguel de Cervantes and J. D. Salinger as well.

HARRY POTTER AND THE UNAUTHORIZED SEQUEL

By Bruce E. Boyden

Gordon's contribution to the debate Ed and I were having on derivative works is fantastic. I'm familiar with *Looking Backward*, having read it in grad school, but I was not familiar with all of the spin-off literature that resulted. Certainly it seems like the debate among rival sequel authors was a good thing that probably decreased Bellamy's incentives or ability to profit from his work not at all.

But Bellamy's case is also an atypical case. The actual fiction in *Looking Backward* seems almost beside the point; even more than most science fiction, it's really a political tract in novel's clothing. That makes it more prone to criticism and commentary in the form

of follow-on works than most other novels would be. In other words, I think cases like *Looking Backward* should be handled by an exception to the general rule against unauthorized sequels (fair use), not by abolishing the general rule altogether.

Once you move away from clear cases like *Looking Backward*, the line between sequels that primarily comment and sequels that primarily exploit becomes really hard to draw. And courts have tried to cram commentary cases into the "parody" category for reasons that escape me. That means that fair use, which is often not easy to predict, may be particularly unclear for this class of cases. Salinger might be a case that's close to the line. But I can imagine much easier cases that argue in favor of the general rule.

Suppose there is no copyright protection against anything except verbatim (or near-verbatim) copies. It's 1995, and J. K. Rowling is shopping around her manuscript for *Harry Potter and the Philosopher's Stone*,* saying she envisions a series of seven books if the publisher is interested. She sends the manuscript to Bloomsbury Publishing; but they say they are not interested. However, that's not quite true. They are very interested in publishing the Harry Potter series; they are convinced it will sell well. They just don't want Rowling to be the author. So they call in one of their favorite children's authors, hand him the manuscript, and say, "Write seven of these, one for each year of Harry Potter's experiences at Hogwarts, using the same characters and locations; just don't use any of the events depicted in the manuscript." And he does, and it sells like gangbusters, and is made into multimillion-dollar movies. Rowling never gets a penny.

Shouldn't Rowling have a legal right to stop this?

In addition, if all that matters is literal copying, it's not clear what becomes of movie rights and other adaptations of works, which are often far from literal depictions.

Encouraging artists to continue exploring the universes they created is the right policy.

*Subsequently published as *Harry Potter and the Sorcerer's Stone*.

“The notion of an ‘author’ in modern western culture is a weighty one, carrying with it some sense of origination. It connotes more than ‘writer,’ which is a less prestigious characterization that goes primarily to a particular activity.”

WHAT IS AN AUTHOR?

By David R. Papke

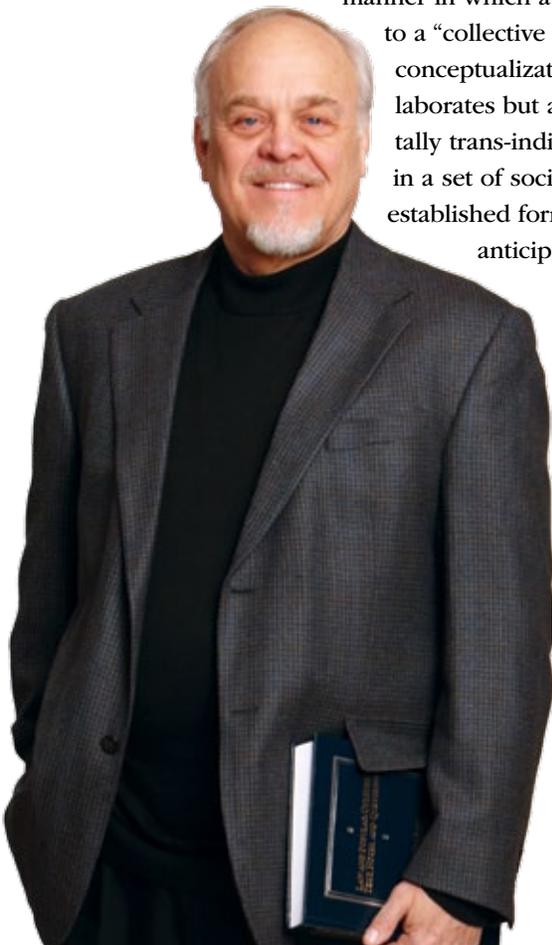
This blog exchange rekindled for me the intellectual question of how to best understand what an “author” is. The notion of an “author” in modern western culture is a weighty one, carrying with it some sense of origination. It connotes more than “writer,” which is a less prestigious characterization that goes primarily to a particular activity. We customarily assume “authors” are intense and even tortured souls heroically working alone. We also sometimes assume that their chief incentive must and should be monetary enrichment. These assumptions grow out of dominant ideological prescriptions related to, respectively, autonomous individualism and the bourgeois market economy.

I think it is better to conceive of an “author” as socially constituted. This is obviously the case when two or more people write a work together or when manuscript reviewers, editors, or critics play major roles in the composition of a work. In addition, according to cultural studies commentator Lucien Goldmann, we should recognize the

manner in which a purported “author” belongs to a “collective subject.” The “author” in this conceptualization not only consciously collaborates but also functions in a fundamentally trans-individual way. He or she works in a set of social relations and draws on established forms, reigning sentiments, and anticipated responses.

If we appreciate the way an “author” is socially constituted, we might actually enrich the experience of authorship. As Ed Fallone reminded us, the rampant commodification of our era often has the effect of alienating a person from the fruits of his or her labor. This is as true for a person who writes a novel (or a sequel . . .) as it is for some-

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body building a birdcage. Indeed, many “authors” eventually become so alienated that they disavow their works or even urge the destruction of their unpublished manuscripts. Recognizing the truly social in individual authorship can help protect the beauty, integrity, and empowerment of creative labor.

I AM THE AUTHOR

By Richard M. Esenberg

As a member of your faithful blog committee, I once inadvertently published posts by Professors Melissa Greipp and David Papke under my own name. The mistake was fixed in the morning.

But I found the latter error intriguing. Here I was, ostensibly the “author” of a post regretting “dominant ideological prescriptions related to, respectively, autonomous individualism and the bourgeois market economy.” It was as if someone had replaced my bedside Edmund Burke with Jean-Paul Sartre.

But here’s the thing. I do agree—in a sense—with David’s point.

If, in the terms David invokes, the author is part of a “collective subject” whose work is “trans-individual” in that it is permeated by others in its creation, then it seems equally probable that it is permeable in the ways in which it will be understood. This should be so quite apart from whether someone else appropriates parts of the work and turns it to a different purpose. (I once heard the band Rage Against the Machine used as part of a presentation at a corporate board meeting.) The “established forms” and “reigning sentiments” that the author invokes may, even



because of the creativity with which he invokes them, provoke responses other than those he anticipated.

An author—or, for that matter, a musical or visual artist—loses control of the meaning of her published work. Others may understand it or use it in ways that she never intended: e.g., Ronald Reagan’s use of Bruce Springsteen’s “Born in the U.S.A.” as a patriotic anthem rather than an expression of irony and anger.

I don’t pretend to know what intellectual property law says about this. One can’t have a property interest in how someone perceives a work, although one can, I suppose, have a property interest in controlling its use and can exercise that interest in a way that hampers the manner in which the work itself can be used to further this unintended and undesired understanding.

But, as a matter of interpretation, I don’t think that there is anything wrong with reading a work or hearing a song in a way that its creator did not intend and, in fact, may categorically reject. My mother was a painter who always told me that a work of art (including hers) was not limited to an artist’s intent or interpretation.

On my personal blog, I occasionally post Sunday music videos (generally live performances) often around a theme and sometimes in support of some political or—more often—philosophical observation. Once in a while, a commenter, in high dudgeon, will say that Thom Yorke never meant that or Dylan repudiated his Christianity. I don’t care. They can point brilliantly to things in the world. But I get to say what it means to me.

Mom would be proud.

MORE ON LITERARY CHARACTERS AND COPYRIGHT LAW

By Edward A. Fallone

My brother, Jim Fallone, has over 20 years of experience as an executive in the publishing industry, currently with Andrews McMeel Publishing in Kansas City, and is a published illustrator. While this experience makes him dependent upon copyright law for his meal ticket, it also gives him some valuable insights into the creation and marketing of literary characters.

Here are the comments of Jim Fallone:

Ed, to begin with, you are fundamentally wrong (as is Professor Hylton).

It is true that *The Catcher in the Rye* can be viewed as art and as such can be viewed as a gift in the Lewis Hyde tradition. However, there are moral and cultural value rules that separate a gift from usury, and that line of separation is not clearly defined and may vary from culture to culture. These rules are directly related to the broader context that exists within the society at the time.

When Cervantes wrote *Don Quixote*, authors of fictions and stories rarely got paid. It was the printer who tended to make the money, both by pirating printings of the original work and by commissioning and even writing many of the sequels to *Quixote*. You can argue that economically Cervantes was much like today's blogger or fan fiction writer. But this is not the same context in which we view *The Catcher in the Rye*. This latter book is a successful and viable commercial revenue generator. It is a business, and the livelihood of the author is directly dependent on the book's own reputation as literature—as well as the mystery surrounding the author and his purposely limited output.

Cervantes we see today as an artist who created something new and who never received much money or benefit from it. However, at the time of his book's creation that is what he desperately sought. Because there were no laws to protect Cervantes, everyone but the author cashed in.

Professor Hylton chose Edward Bellamy's 1888 Utopian novel, *Looking Backward, 2000–1887*, for comparison. Bellamy's book was a parable for a political and philosophical movement. Each sequel was addressing the socialist model, which was the protagonist. The characters and back story of the book were less than secondary and little more than clip art on a PowerPoint presentation. The very nature of the book was to prompt philosophical discourse on the author's political views.

Looking Backward was successful. It made the author wealthy and had a measurable value as a commodity, but much of the author's revenue actually came from the lecture circuit. The failure here is that there was no real intellectual property of value. The main character of the book—Julian West—held no exploitable value, and the only character of any value was Bellamy's socialist model.

In the case of Salinger—again looking beyond the words on the page—a significant reason for the work's



reputation and value as art is precisely the unusual absence of further exploration and exploitation. The value of the novel's theme of a boy's alienation and angst about the future are all the more poignant and urgent precisely because we don't know what becomes of him. This allows us all to identify with Holden and use him as a prism for our own awkward adolescence.

Permitting works by any other author who created an unauthorized canon to the world that Salinger created in *The Catcher in the Rye* would be the equivalent of writing a sequel to *Star Wars* in which Luke has a previously unknown bastard child with Leia, who subsequently becomes a fat alcoholic fascist ruler of the Empire and dooms the rebels to continued mediocrity for generations. There is no way that Lucasfilm would allow its carefully created and detailed universe to be devalued, thereby jeopardizing the reputation of its brand.

This value goes beyond the movies to the action figures and lunch boxes. Both the massive world of *Star Wars* and the tight and reclusive world of *The Catcher in the Rye* rely upon the integrity of their vision and on the property's reputation and myth for a major portion of their value. It's not just telling a new story about Luke that is at issue; it is the creation of new characters and their designation as *Star Wars* characters. In the current context of publishing and retailing, it damages *The Catcher in the Rye's* potential place in school-adoption programs across the country if we permit others to add to the canon or to create confusion as to what should be in the canon.

The current system of publishing allows the good to rise and to be licensed and exploited to its fullest. The bad will go out of print, where the rights will revert and eventually become public domain. ■