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Dangerous Appropriations: Online Fans, Cultural Forms, and Questions of Ownership

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Abstract

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Elena Kim Sawada

Media fans have received increasing scholarly attention in recent years from scholars working within cultural studies. Fandom has often emerged in this discourse as an active and resistant subculture. According to some critics, however, perspectives which focus on the reception of cultural forms can insufficiently contextualize subversive reading within larger power configurations. Conceptualizations of fan activity often neglect the legal means by which media companies strive to retain ownership and control of cultural forms. Intellectual property laws assist owners in shaping the uses to which cultural products are put. Currently, Twentieth Century Fox Film Corporation, owner of the television program The Simpsons is taking issue with online Simpsons fan activity. Investigations of fan websites and an electronic discussion group reveal a contradictory and dynamic relationship between fans and owners of cultural property in the online environment.

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CHAPTER 1: CULTURAL FORMS AS PRIVATE PROPERTY

A young boy has a collection of Mickey Mouse toys, given to him by his parents. He sketches some crude renditions of Mickey's face with crayons, and his proud parents post them on the family website for relatives to view. A girl plays with her Barbie dolls every day, and writes Barbie stories with her friends to act out. The girls circulate their scenarios among a group of young Barbie fans at school. A couple buys a birthday cake for their seven-year-old son with Bart Simpson drawn on it from the local Dairy Queen.

In the above hypothetical examples, who is conducting illegal activity?

Every day, we are surrounded by images, icons, characters, logos, sounds, scents and faces that are the private property of an individual or corporation. Because these protected materials pervade society, via television programs, video games, films, and the like, we incorporate them into our daily lives. Even seemingly innocuous uses of mass-circulated cultural forms, such as the ones listed above, can be considered problematic by intellectual property owners. Sometimes it is difficult to determine the point at which our daily uses of these cultural forms are considered infringements on the rights of owners.

This is especially the case on the Internet, where cultural material is easily accessible and reproducible. The entertainment industry has made many cultural products available online as a means of promotion. For example, film studios promote movies via websites featuring interactive games; television networks like NBC are mounting interactive materials on websites; and record companies are providing preview audio samples from new releases and selling merchandise. For their part, popular culture consumers are beginning to turn to the Internet as a medium through which to obtain information, purchase merchandise, and communicate about music, film and television, through chat rooms, web sites and entertainment search engines.

Of the consumers who travel through cyberspace in search of cultural material, popular culture fans are perhaps the most visible, simply because of the volume of their productive output in the form of websites and their participation in electronic discussion groups. Not surprisingly then, media fandom has become a popular site of analysis among cultural studies researchers, many of whom point to the critical, resistant, and subversive aspects of fan activity. Fans of television programs, music groups and films use the Internet as a medium with which to communicate with one another and express their interests.

There are many online fans of the Fox prime-time television program The Simpsons. The Simpsons family first appeared as a series of thirty-second spots produced by Matt Groening for the Fox series The Tracey Ullman Show. Due to the widespread popularity of the spots, The Simpsons then became a regular series on Jan. 14, 1990.¹ The program has been well-known for its satirical treatment of democracy, politics, leaders, and the media. As a result of this satire, and because the program is animated, certain social groups initially raised concerns about the program's appeal to children. For example, in 1990, several members of the American black community voiced concern over the appeal of Bart Simpson for young black kids, due to Bart's arrogance and lack of respect for authority.² Over the years, however, the program has become the longest-running prime-time animated series in television history.

Like many other cultural property owners, Twentieth Century Fox Film Corporation, owner of The Simpsons, offers a website devoted to the program. As the official Fox website proclaims, The Simpsons has been honored with a Peabody Award,

10 Emmy Awards, seven Annie Awards, three Genesis Awards, three International Monitor Awards and three Environmental Media Awards, among numerous other nods.³ With such a history as this, it is easy to understand the program's huge fan following. Despite this, however, fans of The Simpsons and other television programs have become less visible on-line in recent months due to the struggle between corporations which own media property and the fans who appropriate it. This struggle has resulted in several fan site closures.

Specifically, Fox and other entertainment corporations have been cracking down on fan sites dedicated to the television programs they own. The crackdown involves not just fans of The Simpsons, but of other Fox programs such as The X-Files and Millenium, as well as fans of Paramount/Viacom's Star Trek. The corporations have been issuing threats of legal action to fans who use copyrighted material on their sites. The infringing fan receives a "cease and desist letter," via mail or e-mail. The term "cease and desist" has become a catch-phrase used by fans to signify the on-line conflict between corporations and fans. Chapter Four will describe some of the protest sites which Simpsons fans create in an effort to fight back against the legal threats made by corporations.

Fox has concentrated on the wide range of sites that include copyrighted images, sounds, or text. With the assistance of internet service providers, the company has threatened to cut off internet and e-mail service to offending fans. In order to avoid being denied access to on-line services, fans invariably comply, although they may erect protest sites. These protest sites are more problematic for copyright holders because the

designers have attempted to predict and prevent any possible copyright infringement.

However, fans who erect protest sites are treading on thin ice. A website does not have to directly reproduce copyrighted signifiers to warrant a legal threat. Any work that degrades or alters official signifiers may also be considered a breach of owners' rights. Even including the proper copyright disclaimers will not necessarily get you off the hook. In essence, if a corporate power dislikes what you are doing on your website, you are at risk of receiving a legal threat to remove offending material or lose your access to electronic services altogether.

For example, a fan site called Fūxworld parodies the official Fox Simpsons website. Fūxworld carefully appropriates the layout, images, and textual content of the official site, but with modifications. Changing the family's name to The Sampsons, and transforming the cute yellow Simpsons characters to horrible-looking blue monsters is only the beginning. In essence, while sharing the same overall "look" of the official site, there is nothing on this parodic site that would not make Fox officials shudder. All elements from the official site, including everything from character profiles to merchandise for sale, are used to comment on Fox's heavy-handed approach to dealing with copyright infringement of Simpsons property by on-line fans.

Congratulations, ignorant surfer. You have finally reached the only OFFICIAL *Sampsons* site. We know that you have been to a lot of *Sampsons* sites in the past. They are all poor imitations of our site. We own all the copyrights, we own all of the characters, we own Fatt Gaining, we own it all. So, if you are merely a surfer, we implore you to let us know about the fraudulent sites that

you have been to, so that together we can SHUT THEM DOWN! Ignore that the fair-use laws will in fact apply on the web once they go to court... we need to strongarm the weak and defenseless into our way of thinking. Fans! Ha! Who needs 'em?⁴

The official Fox site includes a quick introduction to the fictional town of Springfield, where the program is set. The blurb begins:

The mighty wheels of commerce throb in the city of SPRINGFIELD... from the industrious laborers at THE NUCLEAR PLANT... to the retail wonderland of THE KWIK-E-MART... citizens go about their never-ending tasks undaunted by the many CELEBRITIES that pass through this glitzy town.⁵

On the fan-created Fūxworld site, this same blurb is replaced with:

The mighty wheels of corporate greed and unethical lawyers throb in the city of SPRANGFELD... nothing at all like our megaCorporation here at FŪX. We love our viewers, and rule you with a stiff hand. What is that saying, 'Spare the rod spoil the child?' Anyway, we want to make your stay in Sprangfeld as wonderful as possible. Remember, this site is the ONLY authorized site, so if you go anywhere, we've got a packet tracker that will follow you to other sites, thus implicating you in copyright infringement issues.⁶

The views put forth by Fūxworld are well known among online Simpsons fans as a scathing mockery of the official site, and as a commentary on Fox's legal actions. Part of the conflict between fans and corporations arises from the difficulties of protecting intellectual property online. The controversy over the application of current intellectual

property law to cyberspace has many sides. Many feel that the current legal framework is not viable in the electronic realm, and that transferring such law directly to cyberspace privileges intellectual property holders, not the public.

As Rosemary Coombe claims, the more powerful the corporate actor in our commercial culture, the more successfully it may immunize itself against oppositional cultural strategies that “recode” those signifiers.⁷ Postmodern theorists like Coombe perceive the omnipresence of commercial signs in our culture as a challenge to corporations who each seek to distinguish themselves in a sea of signifiers. However, corporations wield an intimidating arsenal of intellectual property laws which enable them to defend their corporate interests.

Such struggles over meaning can occur when media property like Bart Simpson enters our living rooms and invites us to engage with it. When a company succeeds in establishing a well-known character, image, song, or other icon, the very popularity and accessibility of this property generates appropriation and resignification. By engaging with popular culture in creative and personal ways, fans gain a sense of ownership, discursive rather than legal, over their favorite media text. In the case of Simpsons fans, Fox values fan activity but not if such activity trespasses on the corporation’s rights of ownership. To Fox, fans’ sense of “ownership,” however defined, is problematic. It is this struggle over control of media property which has inspired Fūxworld and other protest sites erected by fans.

However, the connotations and appropriations of fans are not easily defended if the legal owner protests. Online fans are a dispersed, somewhat nomadic group of

individuals, who appear and disappear online via temporary personal websites and sporadic participation in newsgroups. As a result, there is little collective history or cultural memory which links current fans to past online struggles. Nevertheless, fans of Fox programs tend to agree that the first instance of Fox action against a fan site was against the Millenium site put up by Gil Trevizo. Trevizo, a college student, learned that his internet service provider, the University of Texas at El Paso, had shut down his online access. According to Trevizo, Fox had contacted the dean of students and threatened to sue the university if it didn't "take care of" Trevizo's unofficial Millennium site before the weekend.⁸ Fox apparently does not appreciate that the existence of personal fan sites attracts attention away from its official websites. As one X-Files fan site narrates it:

Fox immediately took action, freezing his college e-mail account, sending him cease-and-desist letters, and ultimately forcing the shut down of his web page. Fox was bombarded by so many angry e-mails protesting their attack on Gil, Fox was forced to shut down all their incoming e-mail accounts because of server failures. But Fox held its position.⁹

Fans like Trevizo have had to defend their websites, counteracting the legal rhetoric of powerful corporations. In articulating a common-sensical, practical understanding of copyright law, fans repeatedly emphasize the fact that their websites are not for profit. Without risk of market harm, it is hard for the average online surfer to perceive such legal threats as fair. As Trevizo puts it, "the online community has been a boon to The X-Files. X-Files merchandising wouldn't have taken off without the

Internet.”¹⁰ Corporations perceive “appropriation” in another way, of course, as do some legal theorists.

In this project, online fans of the television program The Simpsons will be studied to highlight the tension which arises from public usage of private property. However, issues of ownership are not the only factors which delimit the cultural space in which fan activity can take place. As will be shown in the chapter on the electronic Simpsons mailing list, part of the pleasure of consuming the program is discussing the production process. These fans enjoy guessing what the program’s writers were trying to accomplish with particular lines, scenes, or episodes. The television program itself thus offers possibilities for interpretation which fans then draw upon in their debates as to the text’s intended meaning. Furthermore, secondary texts such as interviews with the members of the creative team such as the series composer, executive producers, writers and the creator himself, Matt Groening, are valued among these fans as “authoritative” sources which guide the interpretation process. Fans intentionally constrain their own communicative activity by deferring to official information, prioritizing this over their own unauthoritative, speculative fan gossip.

Thus, this thesis argues that studies of fandom should not focus solely on consumption practices. The concept of the autonomous viewer, free to make any desired meanings of a text, is rejected in favor of the active, but constrained, viewer. Specifically, consumption (fan activity) must be studied together with production (the text’s ability to set limits on meaning-making), and ownership (the owner’s claim to the text and its meanings).

In Chapter Two, before examining some constraints on fan activity, a brief review of audience research is conducted. Within this literature, studies of fans have recently emerged; however some suggest that work on media fans tends to emphasize the processes of reception and interpretation, without due regard for other factors which may mediate the fan's relationship to popular cultural texts. Some researchers therefore argue for a reconsideration of the text in audience research. In particular, corporations attempt to exert control over usage of their property through intellectual property law. A review of American copyright law will shed light on issues of ownership with which online fans must grapple.

After a review of methodology and the ethics of online research in Chapter Three, Chapter Four provides an in-depth look at some of the best-known protest sites designed by fans. These fans appropriate and subvert slogans, images, and other program discourse to comment on the crackdown, and articulate their common sense understanding of what constitutes fair use of cultural forms.

To complement an analysis of fans' protest sites, Chapter Five focuses on the findings gathered through participant observation of an online Simpsons discussion group, with particular attention to their conversations about Fox's legal threats. These fans articulate their relationship to intellectual property law, corporate owners, and cultural material. Surprisingly, however, the crackdown does not generate much discussion on the list overall. To more accurately reflect the culture of this group, the chapter will contextualize the occasional discussions of ownership and copyright within topics which appear much more frequently. Fans prefer to converse about the details of

actual aired Simpsons episodes and behind-the-scenes information than to challenge Fox's authority. They often possess detailed knowledge of the show, of the production process, and of the creative team behind the program. A revisitation of cultural studies conceptions of fandom concludes the thesis.

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- ¹ Fox, 1996. <<http://www.foxworld.com/simpsons/>> (Aug. 1998). Note: click on Credits
- ² Michel Marriot, "I'm Bart, I'm Black And What About It?" New York Times, 19 Sept. 1990, C1 and 8.
- ³ Fox. Note: click on Credits
- ⁴ Fuxworld, "Fux brings you the best website on the planet: THE SAMPSONS," 1997.
<<http://nerd.simplenet.com/fuxworld/sampsons/sampframe.htm>> (Aug. 1998).
- ⁵ Fox.
- ⁶ Fuxworld.
- ⁷ Rosemary Coombe, "Objects Of Property And Subjects Of Politics: Intellectual Property Laws And Democratic Dialogue," Texas Law Review 69, no. 7 (1991): 1953-80.
- ⁸ Silberman, Steve, "Fox Slams Bootleg Millennium Sites," Hotwired, 1998.
<<http://www.hotwired.com/special/millennium/>> (June 1998).
- ⁹ Chris Fusco, "THE X-FILES - 20th Century Fox SUCKS!" Apr. 1998.
<<http://www.wavsounds.com/xfiles/xfiles.htm>> (Aug. 1998).
- ¹⁰ Silberman.

CHAPTER 2: FANS AND CULTURAL STUDIES

This chapter begins by highlighting some turning points in audience research:¹ the hypodermic needle theory and its critique by American mass communications research, the cultural studies response to mainstream scholarship, and the increasing popularity of the active audience thesis. Within audience research, media fans have received increasing attention as a particularly active and critical subculture. Henry Jenkins, drawing on Michel de Certeau, focuses on the ability of fans to resist dominant meanings and to build on original texts through creative activity such as speculation and extrapolation.² John Fiske emphasizes the inability of the text to prefer meanings, and stresses that fan activity occurs within the text's gaps and contradictions.³ This thesis argues that literature which focuses on the interpretive work of audiences in their consumption of texts risks doing so at the expense of factors which may shape and constrain the consumption process. Specifically, such literature under-emphasizes the fact that the reception process is constrained by elements of the text, and the text's production within an industry. As a result, fan studies typically exemplify theoretical problems of cultural studies audience research due to a tendency to celebrate isolated fan activity. This will set the stage for Chapters Four and Five, in which the case studies of this project will be discussed, highlighting the semiotic, legal and institutional constraints placed on the activity of fans of the television program The Simpsons.

Audience Research

Audience research in the last two decades has generally moved from a focus on the text as a container of pre-determined meaning to a concern with textual polysemy and the role of the audience in the interpretation process. Adorno and some of his Frankfurt school colleagues stressed the conservative and reconciliatory role of mass culture for the audience.⁴ Implicit in this conception was a hypodermic model in which the media injected a direct and unmediated message into the minds of the masses. This “pessimistic mass society thesis” stressed that the audience’s responses to mass products were contained within textual structure. Capitalism’s subjects were viewed as passive, uncritical receptors of dominant ideology. Adorno’s portrayal of jazz fans as “vague, inarticulate followers,” intoxicated by the fame of mass culture, is a well-known example of his conviction that the only effect of mass culture was domination.⁵

Since this model, the activity of audiences has received increasingly more attention. Early mainstream communications research in the United States sought to critique the hypodermic model, refuting the notion of direct influence of the media. Through empirical-based studies, researchers instead stressed the importance of informal, interpersonal communication in deflecting and refracting media influence. However, as Todd Gitlin notes, this tradition “enshrined short-run ‘effects’ as ‘measures’ of ‘importance’ largely because these ‘effects’ are measurable in a strict, replicable behavioral sense, thereby deflecting attention from larger social meanings of mass media production.”⁶

Stuart Hall and other scholars at the Centre for Contemporary Cultural Studies (CCCS) in Birmingham rejected the behaviorist tendencies of American mass communications research, criticizing this tradition for its failure to consider ideological forces in society. Although no ideology is perpetually dominant, powerful social groups are able to privilege certain systems of representation over others. Contra mainstream conceptions of the limited effects of the media, these scholars defined the media “as a major cultural and ideological force.”⁷ This return to a concern with the media and ideologies “profoundly modified the ‘behaviorist’ emphases of previous research approaches.”⁸

Along with this return to ideology, CCCS researchers shared a concern with the active role of audiences in decoding media messages. David Morley argues that researchers should “grant a space between text and audience... too often the audience subject is reduced to the status of an automated puppet pulled by the strings of the text.”⁹ Specifically, CCCS scholars suggested that the cultural knowledge and experiences of audience members play a role in the meaning-making process. Thus, in “Encoding/Decoding,” Hall claims that production does not determine consumption; rather, the two constitute part of a set of linked but distinctive moments which characterize the process of communication. No one moment “can fully guarantee the next moment with which it is articulated.”¹⁰

This early paper served in part to challenge cultural studies scholars to explore the balance between conscious struggle and structurally determinate conditions with regard to how historical subjects engaged with the media representations available to

them.¹¹ Janice Radway notes that Hall understood the importance of structuralism to the cultural studies enterprise; she writes that Hall valued structuralism's ability to "conceptualize a cultural totality or whole that operates at least partially by producing an efficacious ideology that both positions and defines the subject."¹² She points out that a large body of new work was undertaken as a response to the theoretical dilemma of conscious struggle versus historical process, much of it under the auspices of the CCCS. These researchers wondered whether the responses of media consumers were determined by mass-produced significations, or whether consumers could make those representations into something more personally useful. Radway points out, with some concern, that this work "has tended to produce at least a temporary consensus" in favor of conscious struggle and individual agency.¹³ In some recent formulations, the focus on the audience, which began with Hall as a means of moving away from a reductionist view of the text as the sole determinant of meaning, has become an equally reductionist focus on the audience. These scholars have rejected Hall's early model at the expense of assuming that the text is incapable of setting limits on interpretation.

What Radway has termed the "cultural studies consensus"¹⁴ can be perceived in American research as well. John Fiske's ideas, for example, have been influential in the United States. He claims that meaning depends on the social and not the textual; on the reader, not the author.¹⁵ Budd, Entman and Steinman describe the basic approach shared by Fiske and certain American cultural studies scholars: "we don't need to worry about people watching several hours of TV a day, consuming its images, ads, and values. People are already critical, active viewers and listeners, not cultural dopes."¹⁶ Budd et al.

note that they are pointing to general trends within this literature, acknowledging that there are plenty of specific passages which offer exceptions. “But in the main, U.S. cultural studies tends to affirm that people habitually use the content of dominant media against itself, to empower themselves.”¹⁷ For this reason, Budd et al. claim that cultural studies, in its importation to the United States, has lost much of its ability to question the power of the media to circulate and prefer certain meanings.

Media Fans

Some might suggest that studies of fans within the American research tradition perhaps exemplify cultural studies’ loss of its critical edge. Media fans have received increasing attention by scholars who want to redeem fans from social stigmatization. Claiming that fans are unfairly portrayed as intellectually debased and psychologically suspect,¹⁸ many researchers in this area proclaim that fans are in fact the most discriminating and active of all audience members. For example, Henry Jenkins claims that stereotypical conceptions of fans stem from anxieties about the violation of dominant cultural hierarchies by those interested in policing the boundaries of good and bad taste. Fans are denigrated because they choose to treat popular culture texts as if they were canonical texts. Jenkins’ goal is therefore to propose an alternative conception of fans: “as readers who appropriate popular texts and reread them in a fashion that serves their interests, as spectators who transform the experience of watching television into a rich and complex participatory culture.”¹⁹ Such research emphasizes the active and critical nature of fan interpretation.

According to Jenkins, fans are different from other audiences on at least five levels of activity; these levels are outlined here and discussed in more detail throughout this chapter. First, “fandom involves a particular mode of reception.”²⁰ Fans watch with undivided attention, and scrutinize the text for details. Much of the reception process occurs within a fan community, in which meanings are shared, articulated through dress, display and gossip, and debated. Second, “fandom involves a particular set of critical and interpretive practices.”²¹ Fans are concerned with the need for internal consistency within and across program episodes. Fan critics work to resolve gaps, to explore excess details and undeveloped potentials; in this process, they construct a meta-text which is larger, richer and more complex than the original text. Third, “fandom constitutes a base for consumer activism.”²² Fans speak back to networks and producers, asserting their right to make judgments about the development of their favorite programs. They organize and lobby on behalf of programs which are on the verge of cancellation. However, industry executives are often hostile to such lobbying, because fan response is assumed to be unrepresentative of general public sentiment. Fourth, “fandom functions as an alternative social community.”²³ Fandom is a utopian space defined by its refusal of mundane values and practices and its celebration of passionately embraced pleasures. Fans gain a sense of identity and intimacy within this community.

Jenkins identifies one more defining characteristic of fandom: it “possesses particular forms of cultural production, aesthetic traditions and practices.”²⁴ Fans use the raw materials of commercial culture and transform them into folk culture, remaking texts so that potentially significant materials can better speak to their cultural interests. Fan

artists, writers, videographers and musicians create works that more fully address their desires. This aesthetic celebrates creative use of already existing mass culture. Fans are “selective users of a vast media culture whose treasures...hold wealth that can be mined and refined for alternative uses.”²⁵ Through a wide array of activity, fans have developed many strategies which allow them to rework the primary text, “repairing or dismissing unsatisfying aspects, developing interests not sufficiently explored.”²⁶ In reworking the text, fans capitalize on the gaps within the text: viewers play with narrative gaps, loose ends, and contradictions to find openings for elaboration and speculation.

To illustrate what he means, Jenkins refers to a study he conducted with Lynn Spigel of “thirtysomethings” about their childhood memories of watching Batman on television. They found that remembering the program evoked both “progressive and reactionary modes of thinking in the course of a single conversation.”²⁷ Participants’ memories centered on moments when they resisted adult authority and asserted their right to their own cultural choices. Yet the program also evoked more reactionary responses in which “the adults, no longer nostalgic for childhood rebellion” would discuss the need to regulate current children’s culture.²⁸ Jenkins concludes that the content of television series provides ambiguous and contradictory discourses which reflect fault lines within dominant ideology. Fans utilize these textual spaces to negotiate their own interpretations.

As another example, in late 1980’s, the television program Beauty and the Beast inspired many fans to capitalize on the text’s openings for creating their own story lines and character development. According to Jenkins, these fans became frustrated with the

unfulfilled romantic possibilities between Vincent and Catherine. By the third season, the fan community had a clear sense of how they wanted the romance between the program's protagonists to be resolved. Fans created new narratives to repair what for them were disappointing aspects of the broadcast episodes. Their interpretations consistently emphasized the more romantic aspects of the text, revealing that they perceived the relationship between Vincent and Catherine as a romance based on mutual trust and commitment. These fans' sense of the series involved a reconciliation of the protagonists' differences and an ideal life together. Such fan activity leads Jenkins to conclude that although fans consider programs such as Star Trek and Beauty and the Beast to be rich and complex, "much of that richness stems from what the reader brings to the text, not what she finds there."²⁹ Fans use textual gaps to extrapolate and create their own narratives: this is central to fan pleasure when engaging with texts.

Jenkins' work also shares some fundamental assumptions with that of John Fiske. Although Fiske admits that the text plays a role in the meaning-making process, this acknowledgment lacks conviction because of his assertion that texts, especially popular ones, are so full of "gaps" and "contradictions" that they are incapable of preferring particular meanings.³⁰ While claiming to be interested in the relationship between textual structure and interpretation, Fiske actually conceives of audience members as free-floating, autonomous subjects insofar as meaning resides in the reader's interpretation.³¹ Michel de Certeau similarly claims that the text allows an indefinite plurality of meanings.³²

Jenkins takes note of certain limitations imposed on the interpretive process within fandom. Individual fans often interact within networks which both facilitate and constrain what can be said about favorite shows by fans. This structure is developed through fan club meetings, viewing sessions, newsletters and letterzines where interpretations are negotiated among a group. In these communal spaces, fan groups develop interpretive conventions. In fact, “an individual’s socialization into fandom often requires learning ‘the right way’ to read as a fan, learning how to employ and comprehend the community’s particular interpretive conventions.”³³ Jenkins explains that “a high degree of consensus shapes fan reception, and a fairly consistent set of criteria are applied by fans to each new episode.”³⁴ For example, the best episodes of Star Trek conform to the fans’ expectations about characters, and also contribute new insights into characters’ motivations or personalities.

But what about constraints placed on the interpretive process from outside fandom? What kind of semiotic freedom prevails if initiation into a fan community involves learning the right way to read, and if we consider the importance of television institutions and other external constraints? Michel de Certeau, whose work largely influences Jenkins’ conceptualizations of fans, provides some promising analogies: consumers are like apartment renters because they make a space habitable through tactics of pleasure and appropriation, yet they do not own that property. He also likens groups and individuals to poachers, appropriating the material owned by others. However, while acknowledging that consumers use the vocabularies of established languages of media and remain subordinated to certain prescribed syntactical forms, de Certeau chooses to

focus on the ability of the dominated to trace out their own pleasures and interests within this context. Consumption is “devious, it is dispersed, but it insinuates itself everywhere, silently and almost invisibly, because it does not manifest itself through its own products, but rather through its *ways of using* the products imposed by a dominant economic order.”³⁵ Specifically, he argues that users make “innumerable and infinitesimal transformations of and within the dominant cultural economy in order to adapt it to their own interests and their own rules.”³⁶ In fact, de Certeau suggests that the most powerless groups of society can be especially empowered to gain pleasure and laugh. For example, an immigrant worker, confronted by images on television, lacks certain capabilities which the average citizen possesses. Nonetheless, “his inferior access to information, financial means, and compensations of all kinds elicits an *increased* [italics mine] deviousness, fantasy, or laughter.”³⁷

Jenkins makes de Certeau’s poaching analogy central to his work; this analogy is useful for depicting the relationship between fans and the media property with which they interact. Jenkins states that: “within the cultural economy, fans are peasants, not proprietors, a recognition which must contextualize our celebration of strategies of popular resistance.”³⁸ Still, Jenkins emphasizes that fans act upon texts in ways which create a sense of ownership over the narratives. He claims that fans are “unimpressed by institutional authority and expertise,” and that they “assert their own right to form interpretations, to offer evaluations, and to construct cultural canons.”³⁹ Such an emphasis divorces individual fan activity and interpretation from the cultural economy Jenkins describes.

According to David Sholle, Fiske makes similar errors; while Fiske says that the analyst must attend to the social determinations that underlie the act of making meaning, in actual practice, he tends to always end up with individuals doing their own thing.⁴⁰ Sholle's point is insightful; looking at one of Fiske's examples easily reveals how he tends to isolate fans from their social surroundings. Fiske shows how teenage girl fans of Madonna make use of the self-empowerment their fandom gives them to take control of the meanings of their own sexuality, and to walk more assertively through the streets.⁴¹ Fiske makes no attempt to situate the girl's fandom within the context of the rest of her own cultural experiences, let alone within her social context. One could suggest that walking assertively may in fact be a negligible attitudinal and behavioral change if considered along with other messages Madonna gives girls. Fiske's conception thus ignores the fact that interpretive processes are affected and partly shaped by power relations. As Sholle claims, the audience does not resist dominant hegemony with its own meanings; its own meanings are structured in relation to that hegemony. Resistance is therefore defined in terms of the prevailing power structure. Sholle therefore argues that this literature does not sufficiently contextualize acts of subversive or devious reading within larger power relations.

Furthermore, some question Fiske's assumption that the "textual struggle for meaning is the precise equivalent of the social struggle for power."⁴² Similarly Jenkins claims that fandom is a world "more concerned with human welfare than with economic advance";⁴³ yet it is difficult to verify whether or not individuals become fans because

they are disenchanted with the social world, or that they perceive their fandom as a political reaction to this dissatisfaction.

Thus, the neglect of factors which constrain audience activity constitutes a problem within cultural studies audience research; there are many social and historical factors that play a role in the fan's relationship to the television text. Although it is difficult to draw causal relationships between such factors and individual response to texts, it is problematic to dismiss social factors out of hand as a reaction against a deterministic view of the effects of ideology on the audience.

Control of the Text

Some researchers have argued for a reevaluation of the central concerns of audience-based cultural studies. Martin Barker admonishes, "cultural studies seems to have this inexorable tendency to critique its own past orientations, to find an 'illustration' that embodies the desired new one, then to devote itself to that with all the abrasive critical attention of lint."⁴⁴ Budd, Entman, and Steinman argue that the optimism and affirmative tone of current cultural studies research is generated because of the focus on reception, which "is the only stage that seems to matter" in this literature.⁴⁵ These authors contend that industrial and textual institutions can therefore be neglected in the analyses, and important issues of control and ownership over mass-circulated cultural forms can be overlooked. In addressing this tendency, Janice Radway suggests that scholarship should connect creative and resistant readings "with many other strategies in a social realm overdetermined by a vast number of interlocking practices producing enormous power differentials."⁴⁶

Morley and Silverstone similarly argue for a consideration of the television text as a motivated bid for attention, and call for an analysis of the techniques of language and symbolization employed.⁴⁷ After all, as Morley suggests, the power of viewers to reinterpret meanings is hardly equivalent to the discursive power of centralized media institutions to construct the texts which the viewer then interprets. To properly acknowledge the “power of centralized media institutions,” as Morley encourages us to do,⁴⁸ involves considering the production of the text and its ownership. This will contextualize the “activity” of the fan, moving beyond celebrations of the activities of consumption.

We might therefore question the extent to which the television industry plays a role in shaping the boundaries within which consumption takes place. On one hand, audiences do not get to directly participate in scheduling and programming decisions. Audiences select programs from ones made available to them by the television industry. Furthermore, as in Jenkins’ example of Beauty and the Beast, fans have no control over the narrative trajectory of these programs. The producers’ decision to thwart romantic potentials between Beauty and the Beast left fans feeling powerless and frustrated. Jenkins reports that fans are acutely aware that “someone else has the power to do things to those characters that are in direct contradiction to the fans’ own interests. Sometimes, fans respond to this situation with a worshipful defence to media producers, yet, often they respond with hostility and anger against those who have the power to ‘retool’ their narratives into something radically different from that which the audience desires.”⁴⁹

As Ien Ang says, we can not ignore the role that institutions play in creating and promoting television programs.⁵⁰ Television institutions target a particular segment of the audience for every program. Furthermore, the invocation of genre, choice of actors, and time of airing are only a few of the factors determined by industry professionals which invite certain interpretive behaviors. Corporations play a role in shaping the codes and conventions of not only popular television, but of filmic and musical genres. Keith Negus provides an example from the music industry: recording companies distribute their staff, artists, genres and resources into divisions defined according to social-cultural identity labels. The financial success or failure of each department determines the amount of future support and investment it receives.⁵¹ These arguments suggest that industries shape the possibilities of audience and fan activity.

On the other hand, we can also explore the extent to which fans shape their own consumption practices against industry practice. Although audiences do not directly decide what gets aired on television, as argued above, fans are occasionally able to influence network decisions. Fandom is a group phenomenon: fans, though often geographically dispersed, easily mobilize into collective opposition to various decisions made by producers.⁵² Specifically, as Sue Brower reports, since the 1960's, fans have rallied for their favorite programs when networks threaten cancellation due to poor ratings.⁵³ In fact, by the 1980's, the letter-writing campaign began to popularize a set of practices by which fans attempted to override the power of the Nielsen ratings by showing their support. Occasionally, such campaigns can extend the life of a series by a

season or two,⁵⁴ or can temporarily bring a program back from hiatus. However, most such campaigns result in failure.⁵⁵

Furthermore, Jenkins argues that fans can subvert television scheduling through re-reading, a central process to fandom in which fans duplicate the viewing experience. For example, fans audiotape programs to preserve the soundtrack, write detailed plot descriptions to share with the community, or memorize dialog.⁵⁶ Most importantly, videotaping and the exchange of videotapes has become a central ritual: fan clubs may devote an entire evening to watching favorite episodes, “spanning several seasons or even decades of broadcasting history in the process.”⁵⁷ Jenkins concludes that “videotape expands control over the programs, allowing [fans] to view as often or in whatever context desired,”⁵⁸ thus rendering the actual airing date and time of minimal importance to fan pleasure and activity. Rereading television texts on their own time frees fans from the constraints of television broadcast schedules.

Thus, strategies such as rallying to save a threatened program and re-reading allow fans to circumvent the fact that their programs are owned by a corporate entity. Often, the result of such dedication is a more detailed knowledge of the show than that of the producers themselves. For example, fans often write amateur program guides which are more accurate and detailed than professional publications. They are able to provide more specific explanations for character motives and narrative action than professionals within the industry.⁵⁹ Fans often evaluate individual episodes against their sense of the entire series because for the fan community, “no episode can be easily disentangled from the series’ historical trajectory.”⁶⁰ Individual episodes which violate the fan community’s

understanding of the overall series are therefore unsatisfactory and disappointing.

Through their intense commitment to their programs, fans cultivate a sense of ownership: they often feel that they are more devoted to their shows than the legal owners.

Central to this sense of ownership is fans' transformation and alteration of program material through a wide array of creative activity. Jenkins remarks on the striking ease with which fans move from watching a television program to engaging in alternative forms of cultural production: writing their own stories, creating fanzines, newsletters, artwork, fan videos, poems, short stories, novels, scripts, and websites.⁶¹ For example, Star Trek fans have created a "meta-text," which they develop in discussion.⁶² This meta-text combines explicit textual information with fan extrapolations to better explain the motivation and context of narrative events.⁶³ Star Trek fans have prepared elaborate time lines to situate each episode in a logical progression; others have tried to reconstruct the languages and cultures of the alien races encountered in the series. Some general strategies include recontextualizing (filling in the gaps in the broadcast material by revealing off-screen actions and behavior), eroticization (exploring the erotic dimensions of characters' lives), and refocalization (shifting attention away from central figures to secondary characters).⁶⁴ Fans' complex elaboration of the concepts and characters within their favorite series "provides a firm basis for criticizing its ideological construction and questioning its producer's motives."⁶⁵

Interestingly, many fans intentionally link their consumption of cultural forms to larger processes and structures: discussion of the circuit of writing, production and executives is part of the pleasure of engaging with the show as fans. Being a fan involves

having an avid interest in the details of the television text itself and of the other texts which surround it. For example, Star Trek and Twin Peaks fans draw not only on the material explicitly presented in the text but also secondary texts: commentary by producers and stars.⁶⁶ Information about the writers, the production process, and network decisions also constitute a large part of The Simpsons online fan culture. This production information is hypertextually linked to many fan websites, and is often cited in discussions of the meaning of particular episodes.

This leads to a question of the connection between the production intentions behind any singular text and fan interpretation. As Jenkins suggests, “media fan culture, like other forms of popular reading, may be understood not in terms of an exclusive interest in any one series or genre; rather media fans take pleasure in making intertextual connections across a broad range of media texts.”⁶⁷ People have no “autonomous consciousness” that enters television’s influence preformed.⁶⁸ Consumption is therefore guided and mediated by conventions which the text evokes. In the case of fans of The Simpsons, this intertextuality is also evoked in the text itself because of the program’s constant references to its own locatedness in a web of other cultural material via allusions to a wide variety of popular culture.

Radway and others have recommended perceiving audiences as nomadic.⁶⁹ Popular culture fans are perhaps less “nomadic” than the term connotes simply because of their degree of commitment to cultural texts. Nonetheless, not only do the fans studied in Chapters Four and Five travel between texts, they conduct their activity online, where cyber-selves appear, disappear, and are constantly in motion. Radway makes provocative

suggestions as to how to investigate the “endlessly shifting, ever-evolving kaleidoscope of daily life and the way in which the media are integrated and implicated within it.”⁷⁰ She suggests that research may uncover how “nomadic subjects and dispersed groups confound the unity of domination by articulating together discursive fragments and practices from many different sources and regions.”⁷¹

However, in discussing the relationship between nomads and popular culture, an important question arises: to what extent are nomadic readers powerful and free? Despite her sense that nomads resist the unity of domination by engaging in individual, privatized leisure activities, Radway wonders “whether the small victories won there in the search for empowerment can ever be transposed into other regions and built upon as a base for further contestations of the dominant social order.”⁷² Budd et al. take this a step further and suggest that nomadic readers “may actually be powerless and dependent” rather than “uncontainable, restless and free.”⁷³ This assessment has implications for the relationship between fans and the industrially controlled texts they consume.

Intellectual Property

As has been shown, while fans do not financially own media texts, they nonetheless have their own claims to the texts they consume, due to their commitment to popular culture. However, what can be neglected in cultural studies research are the legal means by which media companies strive to retain ownership and control of cultural forms. In fact, companies can exert control over the meanings of their products not only in the process of production, but even after the property is in circulation and has become “popular.” Even once the property is in the hands of the public, intellectual property laws

assist owners in shaping the uses to which the product is put. In fact, most of the images, songs, phrases, slogans, characters, logos, faces and names that pervade contemporary society are the private property of an individual or corporate owner.

In describing this consumer society, many social theorists use the term “postmodern” in order to reference both the historical era of capitalist restructuring and the particular forms of cultural practice characteristic to it. The discourse of postmodernism is complex and contradictory; particularly relevant here is the notion of a proliferation of cultural signs and media imagery throughout the public sphere: these signs mediate cultural existence. As Rosemary Coombe points out, “the consumption of commodified representational forms is productive activity in which people engage in meaning-making to adapt signs, texts, and images to their own agendas. These practices of appropriation... are the essence of popular culture, understood by theorists of postmodernism to be central to the political practice of those in subordinate social groups.”⁷⁴ Currently, the circulation and availability of commodified forms is increasingly mediated by the workings of intellectual property laws, which create private property rights in cultural forms. Before highlighting some contemporary issues, a brief look at the intellectual property law itself is in order.

Some critical scholars question traditional notions of the history of intellectual property law, contending that conceptualizations of the law as neutral are problematic. Instead, these critics suggest, laws can be used to further the interests of the powerful and diminish those of the marginalized. From this perspective, the analysis of the development of intellectual property regimes becomes a means of investigating the

“distribution of power within cycles of cultural reproduction.”⁷⁵ In fact, in the late eighteenth and early nineteenth centuries in Europe, “copyright law was critical in normalizing and elevating particular forms of writing and reading and simultaneously delegitimizing alternative relations to textuality.”⁷⁶ More specifically, copyright was a technique for managing the subversive potential of print technologies in the face of the opportunities textuality afforded for the expressive articulations, aspirations, and antagonisms of others, such as working class readers, women, colonial subjects, and others who preferred entertainment to enlightenment.⁷⁷ Since the mid-eighteenth century, Western societies have witnessed a massive expansion of the scope and duration of intellectual property rights and an even greater growth and proliferation of legal protections in the twentieth century.⁷⁸ However, there is still a relative paucity of scholarly literature exploring their social and political implications.

Given their historical emergence as tools with which to distinguish between proper authority and unauthorized alterity, perhaps it is not surprising that today, intellectual property laws continue to enable certain actors to silence oppositional voices. The notion of “authorship” as emanating from a single creative source is the conceptual foundation of copyright, later extended to other intellectual property laws. Current intellectual property laws cling to this Enlightenment conceptualization of the author, in which the singular self speaks with a unique voice.

A recent case, discussed by Andrew Herman and John Sloop, serves to highlight this issue of owner’s control over the meanings of cultural property.⁷⁹ Island Records and Warner-Chappell Music own the sound and image of the music band U2. These owners

were alerted to an appropriation of U2 by a band called Negativland. The band released a single entitled “The Letter ‘U’ and the Numeral ‘2’” which included samples of the U2 single “I Still Haven’t Found What I’m Looking For,” quotations of interviews with U2 band members, a vocal and sound parody of the single, studio outtakes from a radio program “American Top 40,” and other sounds to comment on the popularity of U2 and the rock music industry.

According to Herman and Sloop, U2 is a band whose commercial image signifies artistic integrity and emotional passion. The song Negativland chose to parody serves as an archetypal example of soulful rock and roll. Negativland intended the single to subvert the symbolic concept of authenticity so dear to mainstream pop music culture. However, Negativland was seemingly naïve to the fact that in the eyes of the culture industry, authenticity is more than simply affect and meaning; it is a form of private property.

Acting on their desire to control the connotations of U2, the band’s label and music publishers filed suit for copyright and trademark infringement. Negativland and SST, who released the recording, were compelled to pay more than \$90,000 in legal fees and damages, and to attempt to remove all copies from circulation. The weight of the claims to copyright infringement rested not so much upon unauthorized sampling of the song but upon the satirizing context into which the sample was placed. Any financial damage that the band might suffer was completely subordinate to the “irreparable harm” that would be done to Island Records and Warner Chappell’s entitlement to exploit their product. In the Negativland case, the law upheld Island Records and Warner-Chappell Music as the authors: Negativland was denied the right to “author” U2 in its own way.

The owners were thus able to effectively control and prohibit unauthorized appropriation of their property through intellectual property laws.

Legal discourse therefore upholds certain notions of authorship and creation; however, this discourse does not necessarily reflect the nature of the actual creative process. In fact, borrowing from and building on previous works can be central to the creative process in diverse areas such as, for example, music and the celebrity persona. In music, new compositions are sometimes created from a mixture of pre-existing compositions. Dick Hebdige stresses the importance of past musical works to the creation of new ones. For example, he reports that borrowing is at the heart of all Afro-American and Caribbean musics: sometimes a record is released and hundreds of different versions will follow.⁸⁰ The beauty of “versioning,” says Hebdige, is that “it’s a democratic principle because it implies that no one has the final say. Everybody has a chance to make a contribution.”⁸¹ Hebdige also reveals how Elvis exemplified the process of bricolage: his expertise lay in combining the singing and dancing styles of performers that had preceded him. In this process of combination, Elvis created something of his own.

Rap musicians perhaps understand the notion of musical creation as borrowing best of all. The rap DJ is a cultural bricoleur, creating new cultural experiences from existing ones. As Thomas Schumacher reports, by selecting recorded sounds and reusing them in new recordings, rap music defies traditional definitions of authorship.⁸² Signifying practices in rap music are ultimately premised on referencing the other and by

explicitly relying on previous utterances. This aesthetic of appropriation challenges the traditional ideal of originality that has enslaved our conception of art.⁸³

The image of celebrities are also produced through a creative process: according to Coombe, appropriation from others is central to the celebrity persona in general.⁸⁴ Like other cultural products, creation of the celebrity image occurs in social contexts and draws upon other resources, institutions and technologies: fan clubs, mass media, studios, gossip columnists, public relations agencies, hairdressers, screenwriters. For example, The Marx Brothers might be seen as derivative works due to their creative reworkings of the signifying repertoire of the vaudeville community. And as Madonna reveals through her evocation and ironic reconfiguration of historical sex goddesses, “successful images are often those which mine media history for evocative signifiers from our past.”⁸⁵ In some senses the star image is authored by its consumers as well. Selecting from the complexities of the images and texts they encounter, consumers produce new values for the celebrity: values which are then freely mined by media producers to further enhance market value.

The case of *Negativland* therefore reveals a contradiction between case law and the actual process of creation. Authorial privileges are conferred upon specific entities at the expense of authoring activities of others. Notions of authorship are further problematized in contemporary society due to the fact that laws increasingly bestow authority upon corporate entities, as in the *Negativland* case. Often, legal rights are conferred upon the representatives of the capital used to produce cultural material. As a result, as Celia Lury notes, the attributes of the author are extended to capital itself. By

contrast, the creative labors of individuals involved in the production of the television show or film are standardized to the point of interchangeability in order to deprive them of such a right.⁸⁶ In the case of The Simpsons, the intellectual property holder is Twentieth Century Fox Film Corporation, the provider of the capital needed for production, rather than the creator of the show, Matt Groening. The original moment of authorship becomes that of investment. In contemporary society, authoring activity by consumers is denied in the process of upholding the increasingly prevalent corporate author.

Discourses of authorship and ownership, as upheld by intellectual property law, face even further complications in cyberspace. To what extent are owners of cultural property able to monitor and control uses of their property online? More and more people are using cyberspace for various activities such as accessing databases, e-mail, virtual games, and websites. In the United States, some legal commentators have noted that current copyright law is facing a conceptual crisis due to the Internet. Jessica Litman, for example, claims that current copyright law makes some parties “haves” and others “have-nots,” and that, unsurprisingly, the haves are the strongest advocates of the current model while the have-nots wonder if a new model might be more appropriate to an electronic environment.⁸⁷ As usages of cyberspace proliferate, new legal issues abound. For the purposes of this study, American intellectual property law will be examined because the entertainment corporations exerting legal pressure on fans are based in that country.

In 1995, the Clinton Administration issued a report entitled “Intellectual Property and the National Information Infrastructure” which attempts to address issues of online

copyright. This report, known as the White Paper, has received some criticism. Litman, for example, attacks the Paper for attempting to resolve “just about every ambiguity one can imagine... in favor of the copyright holder.”⁸⁸ Neva Elkin-Koren similarly claims that challenges presented by the electronic environment are often narrowly defined as those which diminish copyright owners’ ability to control the use of their works.⁸⁹

For instance, The Copyright Act of 1976 allows owners to control the public distribution of their works, namely, the transfer of a physical copy. However, “online dissemination no longer involves the distribution of a tangible copy and, therefore, does not fall within the monopoly of copyright owners.”⁹⁰ The White Paper thus recommended amending the law so that distribution to the public would include online transmission. Therefore, web browsers, as they function today, technically violate a copyright holder’s exclusive rights by making a copy: browsers store the information from a web-page temporarily on the user’s computer. Under this amendment, viewing documents by surfing online would constitute copyright infringement unless the author’s permission is obtained. Such electronic distribution is difficult to track but some worry that copyright holders may eventually charge for any online access to their property.

Litman argues that “control over reproduction could potentially allow copyright owners control over every use of digital technology in connection with their protected works. This is not what the Congresses in 1790, 1870, 1909 and 1976 meant to accomplish when they awarded copyright owners exclusive reproduction rights.”⁹¹ Current copyright holders, not surprisingly, prefer that new copyright rules “be designed to enable current stakeholders to retain their dominance in the marketplace.”⁹²

While even the average net-surfer is at risk of copyright infringement merely by surfing, the online fan, due to his or her interest in popular culture, is particularly likely to not only infringe but to attract the attention of a large media corporation. Jenkins celebrates the fact that fans are “undaunted by traditional conceptions of literary and intellectual property” and “raid mass culture, claiming its materials for their own use.”⁹³ This romantic conception of fans as “rogue readers” neglects the actual impact of powerful media corporations. In fact, the large number of fan websites devoted to programs such as The X-Files, Star Trek and The Simpsons has caused concern among companies interested in preventing the distribution of copyrighted material online. In the crackdown on fan appropriation of copyrighted property, fans are hardly fearless and “undaunted,” though there are a few impressive protest sites. The majority of fans with web sites, upon receipt of the “cease and desist” letter from corporate lawyers, disappear without a trace.

Many legal theorists believe that current copyright law is sufficient to handle the emerging technology: only certain definitions need modification in light of new technology. Unfortunately, relying on case by case analysis will only result in short term resolutions to particular copyright conflicts. The problem will remain: copyright law, as it currently stands, is impractical for both the average individual and for new technologies. Reliance on case by case analysis would lead us further down the same path we have been traveling for years now: copyright law has been shifting away from its historical emphasis on encouraging creative activity for public welfare toward protecting the exclusive interests of corporations and their control over profitable material.

This trend needs to be examined by scholars interested in the significance of cultural forms to fans. After all, as Coombe points out, marginalized groups often seek to identify themselves with specific signifiers that hold promise for new forms of political recognition.⁹⁴ She suggests that the signifiers mobilized to achieve recognition have no intrinsically progressive or reactionary character but are strategically positioned in the signifying chains of dominant discourses. Fans and other marginalized groups appropriate mass-circulated signifiers because of their very popularity.

For example, in 1990, many African American youths used Bart Simpson as an expression of what it means to be black and young in the United States. These fans appropriated and reinterpreted Bart's image for production on bootleg t-shirts.⁹⁵ That year, the New York Times announced: "from Harlem to Watts and nearly every urban enclave of black youths in between, black variations of the popular cartoon grade-schooler, Bart Simpson, have been the most enduring T-shirt images of the summer."⁹⁶ The article quotes Dr. Adams, chairman of the Afro-American Studies Department at Howard University in Washington: "Bart is a celebration of the outsider. There is a rowdiness about Bart...these qualities speak particularly well to many black youngsters who are growing up in a society that often alienates them."⁹⁷

The aspiration to identity and recognition is therefore a matter of taking advantage of available, laden signifieds like Bart.⁹⁸ Although some members of the black community considered the grade-schooler's popularity a disgrace, Coombe asks us to view the appropriation as enabling youths to transform their situations of subordination

into articulation through identification: by using a specific signifier that to them, holds promise for new forms of recognition.⁹⁹

In fact, popular forms have always invited appropriation, if only because they appear so frequently in our magazines and newspapers, and on our televisions, movie and computer screens. The very ubiquity of popular signifiers makes them particularly available and attractive for the signifying activities of others, not just the legal owners. Fans of The Simpsons have emerged all over the world due to the widespread availability of Simpsons signifiers. Online fans, no less than local communities of black youths, appropriate media property for their use. Creating a personal home page can be seen as building a virtual identity insofar as it suggests topics, ideas and values regarded by the author as significant.

This research focuses on fans' reactions to and re-articulations of the laws they encounter online partly because fandom is a marginalized, stigmatized social category. In her work, Coombe attempts to embody a sensitivity to absences and inaudibilities because "the law's impact may be felt where it is least evident and where those affected may have few resources to recognize or pursue their rights in institutional forums."¹⁰⁰ This thesis attempts to explore how a particular group of media fans come to terms with the legal limitations on their cultural activity. It therefore attempts to embody what Coombe refers to as an "ethnographic sensibility, greater attention to the workings of law in everyday life - in local knowledges and local practices."¹⁰¹ The next chapter provides details of how such an investigation will be conducted.

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- ¹ What follows is but a brief summary. Trends and transitions discussed may therefore seem more monolithic and homogeneous than they in fact were. The goal is to merely to set the stage for a discussion of current work in the field.
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- ³ John Fiske, Television Culture (New York: Methuen, 1987).
- ⁴ David Morley, The Nationwide Audience: Structure and Decoding (London: BFI, 1980), 1.
- ⁵ Christopher Williams, "The Song Remains the Same" (Ph.D. diss., New York University, 1995), 63.
- ⁶ Todd Gitlin, "Media Sociology: The Dominant Paradigm," Theory and Society 6, no. 2 (1978): 206.
- ⁷ Stuart Hall, "Introduction to Media Studies at the Centre," in Culture, Media, Language. Working Papers in Cultural Studies, 1972-79, ed. Stuart Hall (London: Hutchison, 1980), 117.
- ⁸ Hall, 117.
- ⁹ Morley, 150.
- ¹⁰ Stuart Hall, "Encoding/Decoding," in Culture, Media, Language. Working Papers in Cultural Studies, 1972-79, ed. Stuart Hall (London: Hutchison, 1980), 129.
- ¹¹ Janice Radway, "The Hegemony of 'Specificity' and the Impasse in Audience Research," in The Audience and its Landscape, eds. James Hay, Lawrence Grossberg, and Ellen Wartella (Boulder: Westview Press, 1996).
- ¹² Janice Radway, "The Hegemony of 'Specificity,'" 236.
- ¹³ Janice Radway, "The Hegemony of 'Specificity,'" 237.
- ¹⁴ Janice Radway, "The Hegemony of 'Specificity,'" 236.
- ¹⁵ John Fiske, Understanding Popular Culture (London: Routledge, 1989), 122.
- ¹⁶ Mike Budd, Robert M. Entman, and Clay Steinman, "The Affirmative Character of U.S. Cultural Studies," Critical Studies in Mass Communication 7, no. 2 (1990): 170.
- ¹⁷ Mike Budd, Robert M. Entman, and Clay Steinman, 170.
- ¹⁸ Jenkins.
- ¹⁹ Jenkins, 23.
- ²⁰ Jenkins, 278.
- ²¹ Jenkins, 278.
- ²² Jenkins, 278.
- ²³ Jenkins, 280.
- ²⁴ Jenkins, 279.
- ²⁵ Jenkins, 27.
- ²⁶ Jenkins, 162.
- ²⁷ Jenkins, 35.
- ²⁸ Jenkins, 35.
- ²⁹ Jenkins, 74.
- ³⁰ Fiske discusses his model of popular texts as excessive and unable to control or limit meanings throughout his work; for example, see Television Culture, 90-95.
- ³¹ Luis Rivera-Perez, "Rethinking Ideology: Polysemy, Pleasure and Hegemony in Television Culture," Journal of Communication Inquiry 20 (Fall 1996): 37-56.
- ³² Michel de Certeau, The Practice of Everyday Life (Berkeley, CA: University of California Press, 1984), 169.
- ³³ Jenkins, 89.
- ³⁴ Jenkins, 95.
- ³⁵ De Certeau, xiii.
- ³⁶ De Certeau, xiv.
- ³⁷ De Certeau, xvii.
- ³⁸ Jenkins, 27.
- ³⁹ Jenkins, 18.
- ⁴⁰ David Sholle, "Reading the Audience, Reading Resistance: Prospects and Problems," Journal of Film and Video 43, no. 1 (1991): 80-89.

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- ⁴¹ John Fiske, "The Cultural Economy of Fandom," in The Adoring Audience: Fan Culture and Popular Media, ed. Lisa Lewis (London: Routledge, 1992), 38.
- ⁴² Mike Budd, Robert M. Entman, and Clay Steinman, 175.
- ⁴³ Jenkins, 282.
- ⁴⁴ Martin Barker, "The Bill Clinton Fan Syndrome." Review of The Adoring Audience: Fan Culture and Popular Media, ed. Lisa Lewis, and Textual Poachers: Television Fans and Participatory Culture, by Henry Jenkins. Media, Culture and Society 15 (1991): 669-73.
- ⁴⁵ Mike Budd, Robert M. Entman, and Clay Steinman, 170.
- ⁴⁶ Radway, "The Hegemony of 'Specificity,'" 243.
- ⁴⁷ David Morley and Roger Silverstone, "Domestic Communication - Technologies and Meanings," Media, Culture, Society 12 (1990): 31-55.
- ⁴⁸ David Morley, Television, Audiences, and Cultural Studies (London: Routledge, 1992), 31.
- ⁴⁹ Jenkins, 24.
- ⁵⁰ Ien Ang, "Understanding Television Audiencehood," in Television: The Critical View, ed. Horace Newcomb (New York: Oxford University Press, 1994), 376.
- ⁵¹ Keith Negus, "Cultural Production and the Corporation: Musical Genres and the Strategic Management of Creativity in the US Recording Industry," Media, Culture and Society 20 (1998): 359-79.
- ⁵² Jenkins, 122.
- ⁵³ Sue Brower, "Fans as Tastemakers: Viewers for Quality Television," in The Adoring Audience: Fan Culture and Popular Media, ed. Lisa Lewis (London: Routledge, 1992).
- ⁵⁴ For example, the 1967-68 rallies for Star Trek resulted in the series' renewal for a third season. Brower, 167.
- ⁵⁵ Jenkins, 28.
- ⁵⁶ Jenkins, 69.
- ⁵⁷ Jenkins, 71.
- ⁵⁸ Jenkins, 71.
- ⁵⁹ Jenkins, 70.
- ⁶⁰ Jenkins, 99.
- ⁶¹ Jenkins, 45.
- ⁶² Jenkins, 98.
- ⁶³ Jenkins, 101.
- ⁶⁴ Jenkins, 162.
- ⁶⁵ Jenkins, 118.
- ⁶⁶ Jenkins.
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- ⁶⁸ Mike Budd, Robert M. Entman, and Clay Steinman, 174.
- ⁶⁹ Janice Radway, "Reception Study: Ethnography and the Problems of Dispersed and Nomadic Subjects," Cultural Studies 2, no. 4 (1988): 359-76. Lawrence Grossberg, "Wandering Audiences, Nomadic Critics," Cultural Studies 2, no. 4 (1988): 377-91.
- ⁷⁰ Radway, "Reception Study," 366.
- ⁷¹ Radway, "Reception Study," 367.
- ⁷² Radway, "Reception Study," 370.
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- ⁷⁴ Rosemary Coombe, The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law (Durham and London: Duke University Press, 1998), 57.
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- ⁸⁶ Lury.
- ⁸⁷ Jessica Litman, "Revising Copyright Law for the Information Age," Oregon Law Review 75 (1996): 19.
- ⁸⁸ Litman, 21.
- ⁸⁹ Neva Elkin-Koren, "The Challenges of Technological Change to Copyright Law: Copyright Reform and Social Change In Cyberspace," Science Communication 17, no. 2 (1995).
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- ⁹⁷ Marriot, C8.
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- ¹⁰⁰ Coombe, Cultural Life, 9.
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CHAPTER 3: METHODOLOGY

Because of Fox's restrictions on fan activity, Chapter Four offers an overview of Fox and its parent company, News Corporation. This overview aims to provide an institutional context for a subsequent investigation of protest sites created by fans who find their online activity constrained by the entertainment companies. Two Simpsons websites which protest corporate actions against fans will be described in detail and analyzed. Other fan sites will be referred to in the report, including fan websites of Star Trek and The X-Files. These sites make comments which exemplify fan attitudes toward the crackdown; such comments will be quoted. Because these sites are designed to rally support for a cause, it will be assumed that all textual content is public, and informed consent to quote and comment on these sites will not be obtained.

Chapter Five provides the results of participant observation of an online Simpsons group. Online observation of a fan group is more contentious than the examination of websites. Ethical considerations of participant observation will therefore be detailed below.

Fans of the television program The Simpsons have been chosen because of the high volume of fan activity this show generates online, in the form of fan websites, chat rooms and discussion groups. Fans with Simpsons websites have been largely targeted by the owner of the rights to the program, Twentieth Century Fox Film Corporation, in an effort to limit fan appropriation of media property.

Participant Observation

The discussion group is a mailing list which has been running since late 1996. The group consists of approximately one thousand members from the United States, Europe, and parts of Asia. Subscribers receive anywhere from twenty to fifty e-mail messages daily from each other. The list is moderated by two individuals, both Simpsons fans, who filter out advertisements, test messages, and swearing. The moderation is a main distinction between the mailing list and alt.tv.simpsons, an eight year old Usenet newsgroup also devoted to the program. As a result, the list offers a friendlier, more tolerant atmosphere for fans.

Participant observation (known as “lurking” in cyberspace) has been employed by reading posts to the group for approximately one year. The rationale for this is twofold. First, studies of computer-mediated communication have revealed the necessity of spending a considerable amount of time observing groups before drawing conclusions. Secondly, informal chatter, or “back-stage” discussion, is crucial to understanding talk about television.¹ For this reason, Peter Dahlgren finds that abandoning formal reception research in favor of more unobtrusive methods allows him to get beyond “official discourse” and encourage “personal talk.”²

During the period of observation, the researcher occasionally posted questions or comments to the list, on an informal, irregular basis, depending on the existing flow of the threads. These posts generally served as prompts to expand existing threads. Unlike a survey, this process allowed for clarification and discussion, and led to related posts from

participants. In this sense, the researcher's online presence did not differ from that of other posters who make comments to stimulate discussion of issues relevant to them.

The discussion group can be likened to an ongoing conversation, into which a participant injects comments. As a result, comments are mediated by the participant's sense of the ongoing debate. This discussion group constitutes one of several conversations participants have about The Simpsons; others may include those with family, friends, or at work. Individual interpretation of cultural texts varies with the dynamics of the conversation.³ Because of the recognition that participation in this group, or communication via a website, for that matter, constitutes only one part of a fan's cultural practices, a statement made in these particular forums can not necessarily be taken as representative of a unified and consistent relation to the text. On the contrary, fans have fluctuating attitudes toward other fans, the text, the writers, the network, and Fox. Therefore, the goal of participant observation was not to uncover a stable Truth about this group of fans and their relation to a text. Nonetheless, participant observation was able to uncover and articulate some of the threads which, over time, can be shown to hold significance for fans in this particular context.

According to Jim Thomas, there is continuing debate over the ethics of online research due to a concern to protect the privacy of online communicators.⁴ Brenda Danet claims that lurking (reading posts) is acceptable, if not positively valued, on discussion groups and newsgroups which support a high level of traffic, such as the typical Usenet or listserv group. On the other hand, a study of more private domains in cyberspace could be more problematic.⁵ Multi-User Domains (MUD's), for example, offer text-based

virtual realities in which participants interact in real time. Danet suggests that MUD's are unique cultural realms in which lurking has negative connotations. In the context of the discussion group studied here, lurking before posting is considered valuable by participants who prefer that new posters accustom themselves to the rules of the group before participating. Subscribers receive several messages from this list each day; therefore, regular readers sometimes appreciate when new posters begin posting once they have already learned some of the group's general codes of behavior.

Although lurking itself is not considered a problem by these participants, using the information gathered through participant observation for research purposes is another issue altogether. As Thomas recommends, observation of this group has been conducted with the view that research in cyberspace provides no special dispensation to ignore ethical precepts. At the same time, the online environment offers new challenges which do not necessarily directly correspond to ethical issues faced by the researcher in other settings. Thomas highlights some of the major difficulties presented by online research: "the ease of covert observation, the occasional blurry distinction between public and private venues, and the difficulty of obtaining the informed consent of subjects make cyber-research particularly vulnerable to ethical breaches by even the most scrupulous scholars."⁶

Thomas provides a helpful means of organizing and analyzing the various arguments put forth about the ethics of online research by distinguishing between teleological and deontological perspectives.⁷ He defines teleological positions as ones which operate from the premise that ethical behavior is determined by the consequences

of an act.⁸ Considering the newness and unfamiliarity of cyberspace research, some suggest that it is most ethical at this point to treat online groups in a situational manner. Deontological perspectives, on the other hand, are based on rule following; some recommend we define and enforce formal ethical precepts for research online. As will be shown, this project follows some of the proposed guidelines set out by researchers who believe formal rules are most ethical. Where these guidelines have not been met, justification is provided by reference to the particularities of this case.

Those taking a teleological perspective would argue that the lack of a set of codified rules is not to be regretted: pre-determined precepts can jeopardize the research process when rigidly adhered to in a relatively unknown ethical environment. For example, Christina Allen argues that reliance on formal rules can break down in part because the researcher's perceptions and interpretations may not match those of subjects.⁹ She accepts Mikhail Bakhtin's dictum that "one cannot live ethically by reproducing established 'rhythms' " but must instead recognize each situation as one requiring receptivity to each unique context.¹⁰ Thomas similarly recommends appealing to broad principles rather than specific edicts, and claims that, at root, three basic guidelines are sufficient to guide us in doing right: never put our subjects at risk, never lie to them, and minimize social harm while enhancing social good.

However, some would argue that a lack of formal rules invites ethical complications. As Storm King argues, the undefined ethical considerations of new fields of study can lead to an apparent disregard for the human subjects involved.¹¹ As an example, King argues that early studies in social psychology submitted unwitting

volunteers to high levels of stress. While understanding that adhering to guidelines does not guarantee ethical integrity, some researchers believe there are some rules upon which we can agree, despite the relative newness of the online environment.

One area of debate, particularly relevant to this project, is whether or not public forums should be treated as public speech. Some researchers argue for a situational approach; others like King argue for a codified approach. What if ethical guidelines for public spaces are applied to an online environment where participants occasionally talk privately? Dennis Waskul and Mark Douglass argue that the oversimplified public versus private dichotomy of “domains” of cyberspace refers to accessibility, not the experiences of participants.¹² As an example, the authors state that a participant that posts to a sexual abuse survivors group does not intend for that message to be read by someone looking for erotica, or members of an Alcoholics Anonymous group, despite the fact that the message may be “publicly” accessible to these persons. Furthermore, even if defining public space online were a straightforward matter, one could question the equivalence between public realms online and off-line. Should “public” Internet postings be treated the same as public behavior on the street or in a park?

King states that online groups vary in terms of their levels of privacy and publicity, yet in keeping with a deontological perspective, ultimately proposes a list of guidelines for researchers to follow. These will be outlined in part below. He believes that Internet communities exist with varying degrees of “perceived privacy”: the extent to which members perceive their messages to be private to that group. He also argues that groups vary in terms of “group accessibility”: the degree to which the existence of and

access to a forum is publicly available information.¹³ In other words, even if a group is highly accessible, members of high perceived privacy groups post messages with the expectation that only others who understand and respect their situation will read the post.

Having spent several months doing participant observation of this forum, I suggest that members of this group have a low degree of perceived privacy and a high degree of group accessibility due to the size and nature of the forum. In terms of size, as Douglass and Waskul argue, larger groups tend to have less perceived privacy. As mentioned, the group studied here consists of approximately one thousand individuals. Posting to this group involves communicating to strangers: active participants understand that there are hundreds of members who simply lurk. Some individuals even subscribe to the list temporarily in order to post a question to the list at large, in hopes of reaching anyone who will know the answer. Furthermore, in addition to sharing their views on the program with the group, many of these participants have their own websites where their views are articulated, and which provide the fan's name and e-mail address as an invitation for public comment.

Waskul and Douglass also suggest considering the nature of the forum; for example, studying a group organized around recreational drug use or self-help would require careful attention to the degree of perceived privacy of members. In this case, discussion of a television program generates less perceived privacy due to the fact that discussion centers on the television program rather than the private lives of participants.

Nonetheless, measures will be taken to minimize the risk of violating a participant's perceived privacy by avoiding any potentially identifying characteristics of

the data gathered. For this reason, only the date of the post will be cited.¹⁴ Some of King's recommendations are simple to follow. The following precautions have been taken during the course of this research to ensure subject anonymity:

1. All references within the citation to any person's name or pseudonym, that of the author or other group members, have been removed.
2. All references to the location of the online group have been removed.
3. Original data, though containing mostly pseudonyms, has been stored safely and privately. Only the researcher has access to this material. The data will be shredded approximately three months after the thesis defense, before September 1999.¹⁵

According to Waskul and Douglass, ethical considerations also arise from the degree of "intrusiveness" of the methodology.¹⁶ As an example, the authors state that counting posts is less intrusive than analyzing messages. This project involves looking specifically at the content of posted messages. However, these messages are quoted modestly, and all identifying characteristics are removed.

Waskul and Douglass also recommend conducting research using key informants to minimize deception. However, it can be argued with a group of approximately one thousand participants, reliance on a few informants would distort the project. The flow of the threads, as they develop between a large number of group participants, is of interest because it aids in delineating the values and concerns of the online fan culture. Susan Herring makes a similar argument in her evaluation of research conducted by Christina Allen, who, in attempting to minimize ethical difficulties, used only four informants out of a group of nine thousand.¹⁷ Although using a small number of informants allowed

Allen to keep the subjects informed of her research progress and to obtain their feedback, Herring rightfully questions how representative a handful of individuals are of the complex group as a whole.

One of the most ethically controversial aspects of this project is the issue of informed consent. Waskul and Douglass suggest that researchers obtain informed consent wherever possible: “inform participants as much as possible about research, with its purposes, benefits, and potential burdens that may result from being studied.”¹⁸ However, they admit to the difficulties of accomplishing this in the online environment. Unfortunately, it is hard to conceive of a means of rigorously obtaining informed consent in the context of a list this size, whose members sporadically read and post messages. Membership in this group is fluid and ever-changing. Therefore, ensuring that every participant at any given time is aware of the research project would involve posting project information daily, which would interrupt the very flow of group discussion under study.

Moreover, even if group consensus is hypothetically granted, Herring asks what happens if the project reveals a “political division within the group, or patterns of dominance of some members by others?”¹⁹ She refers to her own research on gender patterns in computer-mediated communication (CMC), where, for example, she finds that many women are intimidated by male posting behavior. She would have been unable to conduct her study with informed consent of posters; and yet feels she has a responsibility to critique certain aspects of CMC. Consensus-based guidelines, such as obtaining informed consent, “inasmuch as they inhibit critical research practices, are

themselves ethically problematic.”²⁰ In any case, Elizabeth Reid claims that studying Usenet articles without informed consent is justified because the author of an article “could not reasonably expect to exclude any person from gaining access to his or her words, even if any particular individual were not specifically envisioned as part of the audience.”²¹

Nonetheless, permission for this project was obtained by the list’s moderators. An e-mail letter was sent to these two individuals, who, as mentioned, are responsible for filtering messages which they then send out to members. This letter outlined the research goals and asked for permission to do participant observation of the group for research purposes. The moderators replied with enthusiasm and requested that an explanation of the project be posted to the list. This post invited questions, concerns or objections from the group at large. For details of this correspondence, please see Appendixes B and C. A number of members responded to the description of the research through private e-mail and the list; however, all comments were positive and enthusiastic. Some members even shared personal viewpoints or experiences in relation to the proposed research or offered related information they felt might be of assistance to the researcher.

¹ Peter Dahlgren, "What's the Meaning of This? Viewers' Plural Sense-Making of TV News," Media, Culture and Society 10, no. 3 (1988): 292.

² Dahlgren, 292.

³ David Machin and Michael Carrithers, "From 'Interpretive Communities' to 'Communities of Improvisation'," Media, Culture and Society 18 (1996): 343-52.

⁴ Jim Thomas, "Introduction: A Debate about the Ethics of Fair Practices for Collecting Social Science Data in Cyberspace," The Information Society 12, no. 2 (1996): 107-17.

⁵ Brenda Danet, "Playful Expressivity and Artfulness in Computer-Mediated Communication," Journal of Computer-Mediated Communication 1, no. 2 (1995). <<http://jcmc.huji.ac.il/vol1/issue2/genintro.html>>

⁶ Thomas, 107.

⁷ Thomas.

⁸ Thomas.

⁹ Christina Allen, "What's Wrong with the 'Golden Rule'? Conundrums of Conducting Ethical Research in Cyberspace," The Information Society 12, no. 2 (1996): 175-87.

¹⁰ Allen, 176.

¹¹ Storm King, "Researching Internet Communities: Proposed Ethical Guidelines for the Reporting of Results," The Information Society 12, no. 2 (1996): 119-27.

¹² Dennis Waskul, and Mark Douglass, "Considering the Electronic Participant: Some Polemical Observations on the Ethics of On-Line Research," The Information Society 12, no. 2 (1996): 129-39.

¹³ King, 125-26.

¹⁴ This decision contradicts the recommendation in Xia Li and Nancy B. Crane, Electronic Styles: A Handbook for Citing Electronic Information 2nd ed. (Medford, NJ: Information Today, 1996), 53.

¹⁵ Based in part on King, 127.

¹⁶ Waskul and Douglass, 133.

¹⁷ Susan Herring, "Linguistic and Critical Analysis of Computer-Mediated Communication: Some Ethical and Scholarly Considerations," The Information Society 12, no. 2 (1996): 153-68.

¹⁸ Waskul and Douglass, 137.

¹⁹ Herring, 161.

²⁰ Herring, 165.

²¹ Elizabeth Reid, "Informed Consent in the Study of On-Line Communities: A Reflection on the Effects of Computer-Mediated Social Research," The Information Society 12, no. 2 (1996): 169-74.

CHAPTER 4: PROTEST AND PARODY ON FAN WEBSITES

This chapter explores the online conflict currently being waged between fans and owners of cultural property. As will be shown, fans of several television programs have created websites of their favorite shows: websites which draw attention to fans' particular interests within the program. These sites are described, highlighting their inclusion of arguably copyrighted program material such as an image of Dana Scully (The X-Files), a video clip of Captain Picard (Star Trek), or a moving icon of Homer Simpson (The Simpsons). The conflict between Fox and fans of The Simpsons is highlighted, emphasizing that the relationship between fans and the owners of television programs is characterized by an imbalance of power. As mentioned in Chapter Two, Jenkins writes that fans are "unimpressed by institutional authority and expertise," and that they "assert their own right to form interpretations, to offer evaluations, and to construct cultural canons."¹ Arguably, a lack of in-depth consideration of the power of television institutions distorts conceptualizations of fans' ability to interpret and appropriate, even for fans who are "unimpressed" with such authority.

The chapter begins by contextualizing fan usage of The Simpsons within the institutional framework of the program's ownership. The Simpsons is one small part of Rupert Murdoch's News Corporation. An overview of Fox's need to protect its property sets the stage for a discussion of online appropriation of this property by fans in their websites. The crackdown on fan sites by corporations is explored, including the actions of media companies and the reactions by fans. In protesting recent corporate actions against fan appropriation, fans reveal their own understanding of copyright law.

Fūxworld, the most condemnatory and parodic protest Simpsons site receives detailed emphasis. The chapter concludes with a description of the multitudinous resignification strategies many fans of The Simpsons, The X-Files and Star Trek are using to recode official television slogans and catch-phrases.

Murdoch and News Corporation

Fans engage with and interpret popular cultural forms such as films, music and television programs. However, the ownership of popular cultural forms is becoming increasingly concentrated in fewer and fewer corporate hands, as media empires such as News Corporation (News Corp) grow. As a result, corporate actors often attempt to mediate fans' relationship with the popular forms they own. Romantic visions of the resistance of fans within cultural studies could benefit from a consideration of the ownership of popular culture and the intellectual property benefits this entails.

The Simpsons is produced by Gracie Films for Twentieth Century Fox Film Corporation, which owns the copyright to the program. Thus, using Jenkins' metaphor, the poachers are Simpsons fans, and the landowner is Fox, which itself is a division of News Corporation, Rupert Murdoch's media empire. Before discussing the online battle over ownership and control over The Simpsons property, a brief description of News Corporation (News Corp), of which Fox is a part, and Fox's need to protect its property is in order. This will highlight the issues of ownership which affect the consumption processes of fan activity.

As Russ Baker reports, Rupert Murdoch, head of News Corp, boasts an ever-growing percentage of media ownership (especially in television) in the United States.

His U.S. properties include Twentieth Century Fox, HarperCollins, TV Guide, New York Post, Fox Broadcasting, Fox News Channel, Fox Sports Net, The Weekly Standard, and television stations in New York (WNYW), Washington (WTTG), Los Angeles (KTTV), Philadelphia (WTXF), Chicago (WFLD), Atlanta (WAGA), Boston (WFXT), Phoenix (KSAZ), and fourteen other cities.² In total, Murdoch boasts of having access to well over 250 million homes worldwide.

Baker claims that Murdoch uses his diverse holdings, which include newspapers, magazines, sports teams, a movie studio, and a book publisher, to promote his own interests at the expense of real newsgathering, legal and regulatory rules, and journalistic ethics. As a minor example, his newspapers promote Fox television series and specials. On a larger scale, Baker sees a connection between Murdoch and the New York Posts' emphasis on racial issues: "when Murdoch did not own the Post, that paper's tendency to inflame racial passions in New York diminished remarkably."

Murdoch moves effortlessly between Republicans and Democrats, Tories and Laborites, capitalists and communists, depending on what deals are cooking.³ As James Surowiecki suggests, "there's no question that Murdoch has helped shift the media landscape to the right, but when other voices have proven popular - which is to say, profitable - he's been more than willing to let them speak."⁴

For example, there are remarkably few stories of Murdoch actually intervening to spike stories or programs. Surowiecki suggests that Murdoch presided over the cultural ascendancy of The Simpsons, "which in every sense -- its bleak view of capitalism, its critique of religion and its casual depiction of gay characters as mainstream -- assaulted

his own worldview.”⁵ In other words, as far as Murdoch is concerned, the program’s writing staff can do what they want because of the program’s success and profitability. Stephen Duncombe similarly suggests that themes of resistance, as put forth by programs like The Simpsons, are “incorporated painlessly into the system”⁶: their critical nature is secondary to their contribution to the workings of consumer culture. The fact that critical shows like The Simpsons and The X-Files “can be found on conservative media mogul Rupert Murdoch’s Fox network suggests that the powers that be don’t stay awake at night fearing the subversive effect of this critical culture.”⁷

Fox’s Protection of Property

Within News Corp, Fox supplies programming via its first-run production division, Twentieth Century Fox Television (TCFTV), to broadcast networks including Fox Broadcasting, which has emerged as the fourth American network along with NBC, ABC and CBS. For example, TCFTV produces The X-Files, Millennium, The Simpsons, and King of the Hill for Fox Broadcasting. Some suggest that protection of property such as The Simpsons is vital for network success. Simply put, Fox and other television networks are experiencing difficult financial times. They are competing with each other for a diminishing viewership, thanks to cable’s increasing popularity. They are also paying more for programming, unable to resist the demands of sports leagues, prime-time stars, and Hollywood studios.⁸ Marc Gunther reports that one big payday for the networks comes because of programs like The X-Files and The Simpsons: owned and syndicated hit shows. He asks, “so what if Fox wrote off \$360 million in losses after buying rights to

the NFL? They'll make it back by selling Bart Simpson. That is the new economics of network television.”⁹

Fox network is not alone in embracing the licensing strategy, according to Vanessa Facenda. With so much capital going into the creation and distribution of films and television shows, more and more companies are looking to licensing to protect their interests.¹⁰ Despite the hundreds of feature films being released per year, and many with licensing opportunities as well, retailers and studio executives acknowledge that the strength of the day-to-day business in stores are the classic characters.

In general, all merchandise licensing ventures depend on the legal shield around the name, logo, shape, or character image: this protection makes it possible for the proprietor to assign the sign to second and third parties for a limited period of time in exchange for royalties.¹¹ In fact, we are living in an era in which “characters, phrases, logos, and even names and faces from movies, novels and television are the subject of merchandising rights and tie-in contracts.”¹² Not surprisingly, then, The Simpsons is to Fox as Mickey Mouse is to Disney: marketing The Simpsons is the number one priority for the studio, given its multi-generational appeal and the freshness of the property.¹³ As will be seen, however, corporate attempts to control uses and connotations of mass-circulated property are often thwarted by the resignifying practices of consumers.

To what lengths should the studio go to protect its property? Taking one example, should Fox let the image of Bart Simpson be drawn on children's birthday cakes? According to Fox, no. Antonia Coffman, spokeswoman for FoxTV, says that bakeries “cannot be using the characters that are trademarked or copyrighted.”¹⁴ In an article titled

“Freeze, kid. You need a license for that cake,” Diane Richard reports that crackdowns on cake decorators can result in litigation and fines for small operators. American Dairy Queen has had to advise its store operators against the use of unauthorized characters.¹⁵ Furthermore, Coombe reports that a twelve year old boy was sued for producing bootleg Bart Simpson t-shirts. Although this is only a rumor, she believes it to be “a telling one.”¹⁶ Simpsons-related property circulates with ease: protected images appear on everything from bootleg t-shirts to cakes. Arguably, it is becoming easier and easier to infringe on intellectual property rights, due to the expansion of technologies of reproduction. Fox and other companies have therefore made increasing efforts to find and regulate unauthorized usage.

For example, Paramount, which owns the rights to Star Trek, has become increasingly intolerant towards fan activity in recent years after a long history of accommodation and acceptance. The first Star Trek fanzine, Spockanalia, appeared in 1967. Joan Marie Verba reports that in the decades that followed, Paramount watched the fanzine phenomenon grow, explode and wane without intervening.¹⁷ There were two exceptions to this policy of accommodation, one in 1979 and one in 1982, when Paramount demanded fanzine editors to stop publication. However, in both cases, Paramount had simply mistaken a fan effort for that of a professional retailer, and upon realizing the non-commercial nature of both fanzines, withdrew. Historically, Paramount has been quick to react to commercial appropriations of its property but highly tolerant of non-commercial fan publication. Rebecca Tushnet reports that this strategy has allowed the

corporation to take advantage of fan appropriation to strengthen its market position and build loyalty.¹⁸

Recently, however, all this has changed. Reversing a 30 year practice, Paramount Pictures has sued Star Trek fan Samuel Ramer and his publishing company for writing an unauthorized book about the world of Star Trek fandom.¹⁹ Paramount argues that the book violates the copyrights of 220 Star Trek episodes: the company is therefore seeking civil damages in the amount of \$22 million, and has ordered sales to be banned. Ramer's lawyers are trying to emphasize that for 30 years Paramount tolerated and even encouraged fans to engage in technically unauthorized activities in order to maintain interest and enthusiasm for the then-struggling franchise. Without many unauthorized books, the lawyers argue, Star Trek would have been an obscure footnote in entertainment history, rather than the unparalleled success that it has become today.

Creation of Fan Sites

As mentioned in Chapter Two, the advent of the Internet has further heightened this conflict between owners of cultural material and fans. The overall purpose of American copyright law is "to promote the progress of science and the useful arts."²⁰ To do this, copyright law attempts to balance the interests of copyright holders and the public. Copyright law therefore grants creators several rights to control the manner in which their work is used in order to provide incentives for creative activity. However, these rights are granted in a limited fashion so that the ideas may be disseminated throughout the public. This is a difficult balancing act: case law provides contradictory and complex rulings. Not surprisingly, as the law finds its way into the everyday lives of

fans, contestation and resistance increasingly characterize the intersection between fans and the owners of media property: owners of popular cultural forms are becoming alarmed at the accessibility of their material online, while fans seek to appropriate images and video or sound files for their own use.

Cyberspace has expanded the readership for fan fiction, which fan authors create by borrowing settings, characters, themes and plot lines from popular narratives. Janelle Brown states that before the Internet was a media force, studios could afford to look the other way when it came to fan fiction, “because those hand-copied print zines that published it did not get much exposure. But on the Web, where anyone can conceivably publish to millions of people, fan fiction has entered a new dimension.”²¹

In addition to fan fiction, fan websites have flourished. Currently, more and more individuals are creating homepages on the World Wide Web. Many internet service providers offer customers space for a homepage as part of their online packages. In the case of fans, these websites are devoted to the fan’s favorite music band, cartoon, or television program. The Simpsons has inspired a variety of online activity. Some individuals simply include some Simpsons material on their homepage, as part of a description of other personal interests and hobbies. Others devote an entire page to the program; most of these are simply a collection of aspects of the program which the fan finds the most interesting, and are typically named “*Fan Name’s Simpsons Site*.” Others create character sites, devoted to one or more Simpsons characters. While most fans include a section in which they provide links to recommended sites, some fans create sites devoted entirely to links, often with a description of the content for the benefit of

the surfer in search of a particular image or detail. These sites usually also provide a rating of linked sites: fans devise their own ratings systems, using various numerical scales or verbal categories, such as poor to excellent. Lastly, some fans create audiovisual sites which contain any combination of still and animated images, video clips, and sounds. Fans make their sites available to other fans and the general public by submitting their addresses to search engines, which are designed to assist surfers in finding sites based on a keyword search. Typing “The Simpsons” in the search field of any major search engine such as *Yahoo!*, *Altavista*, or *Lycos*, will take you to a variety of such sites.

In the process of creating websites, fans combine media properties which mean the most to them. Constructing a website takes a fan on a necessary journey to existing sites: for images, sounds, layout, titles, fonts, and links. Fans use other sites as inspiration, and as points of departure to create something unique. To a certain extent, basing a homepage on an existing one is a practical decision: it is a long and difficult task to write computer coding to create a page from scratch, especially for individuals with no programming experience. Cutting and pasting fragments of existing “html code” is a fairly common practice.

Many elements are common throughout Simpsons sites -- for example, a popular wallpaper (background design) of Homer choking Bart. However, the repetition of such elements occurs with conscious differences: fans pick and choose elements from the variety of website components they encounter while surfing, and in recombining the chosen elements, they produce something new that is relevant to their own perception and reaction to the program. Fans with newly created websites proudly announce their

cyberspace address to the fan community, via online fan clubs, e-mail, and newsgroups. There is a sense of pride in having created something new, albeit from existing creations.

Fans therefore borrow ideas from other fans and from the owners of the media property, yet this borrowing is not mere reproduction. Coombe points to the work of Michel de Certeau and Paul Willis in her analysis of fan appropriation of mass-circulated signifiers. She refers to their description of bricolage as central to the practices of those in subordinated social groups who forge subcultures with resources foraged from the mediascape.²² Jenkins similarly argues that consumption is always a form of production.

Corporate Crackdown

The experience of surfing the Internet for resources with which to build a Simpsons fan site has changed dramatically since approximately 1996. Where a wide variety of sites once existed, all paying tribute to the program in different ways, fewer and fewer sites remain due to the “cease and desist” letter campaign of Fox and other corporations interested in protecting their property. Websites have been under attack recently due to their inclusion of sound clips, images, slogans and plot lines owned by corporations. These companies search the Internet for copyrighted material on websites, and contact the internet service provider (ISP) of offending fans.²³ Offenders are then sent a letter, the now famous “cease and desist,” or “c&d,” requesting the removal of such material under threat of losing access to internet and e-mail services.

This raises thorny questions about the role of ISP’s because their cooperation helps corporations exert control over their users. Steve Silberman describes a recent example which concerns the use of Mattel’s *Barbie*-related copyrighted material on

personal websites. Mark Napier's *Barbie* site "weaves text and visuals - including altered iterations of the famous face - into a pointed inquiry into the role of Barbie as an icon."²⁴ Napier's ISP, Interport, contacted him due to a request from Mattel. Interport vice-president Phillip Kim claims that Interport is not qualified to verify Mattel's claims to copyright infringement. Nonetheless, the company's policy, like that of many others, is to act in a manner which limits their liability. The problem, says Kim, is that Interport "is just trying to follow the letter of the law, and the law is unfortunately not very clear."²⁵ Fans therefore have no choice but to comply with the orders. The resulting role of ISP's could merit further research insofar as their compliance permits entertainment giants to exert influence upon internet clients. Even if the law does not provide clear mandates, as Kim says, the actions of ISP's may serve to reduce ambiguity in favor of intellectual property holders. ISP compliance may therefore assist in articulating evolving rules governing the circulation and appropriation of cultural forms online.

While several fan sites have disappeared altogether, the traces of certain sites, sometimes ones particularly salient in the minds of online fans, remain in the form of dead links or tributes on current sites. For example, Fūxworld, a parody of the official Fox Simpsons site, maintains a small list of shut down sites as an ironic comment on Fox's lack of sympathy. "Congratulations," the morbid black and grey page proclaims, "Fūx congratulates our 1997 shut down fan sponsored sites!"²⁶ Each site is listed on its own cyber-tombstone, including the name of the deceased site and its date of death. Other sites are not as dramatic as this, instead including a quick tribute to a shut-down site to which the designer feels something of a cultural debt.

Fox's letter, attached as Appendix A, simply demands that infringing material be taken down; it does not order sites to shut down. The letter distinguishes between audio or visual clips and stationary images, finding the latter less problematic. Fox's lawyers order the immediate removal of all video and audio clips, under threat of legal action. As for stationary-frame images, Fox writes "the unauthorized display and distribution of such images *may* [italics mine] constitute a copyright violation" if and when Fox decides to act on its rights.²⁷ The letter seems to imply that, unlike video and audio clips, keeping such images on the website will not result in immediate legal action, but could in the future.

Unfortunately for Fox, strong rumors persist despite the official stance that sites are not being ordered to shut down. Gil Trevizo, who put up his Millenium site on the day of the series premiere, claims he was ordered to shut down his site altogether or else lose access to his campus e-mail permanently.²⁸ Others also claim their sites have been "shut down" by Fox.

Part of the reason for the rumor could be that when ordered to remove infringing material, fans are left with two choices: keep the site up without any authentic media signifiers, or remove the site altogether. Thus, among fans who choose the former and remove all infringing material, many believe that their modified sites are mere skeletons of what they once were: these sites look completely different after the changes, especially in cases where the designer has taken the safest route by choosing to remove all stationary-frame images, as well as audio and video clips. Without the ability to appropriate official signifiers without fear of legal action, many site owners prefer not to

take the risk, creating instead Simpsons webpages without the Simpsons look. One fan uses capital letters to express sarcasm: “Oh, FOX is SOOOOOOOO generous!! They are letting us actually write text about the shows!! Of course, who would EVER want to POSSIBLY want pictures or sounds? *guffah* What a preposterous notion!” (17 Sept. 1998). The same problem of authenticity has been encountered by Star Trek fans who are unable to use official material:

Part of what makes a Star Trek site a Star Trek site is the universe of sights and sounds that greets you when you get there: the look of the data readouts, the swoosh of the turbolifts, the faces of Picard and his crew. That’s the magic in it - a shared language of the imagination, which is the seed of community. To attempt to force a community to sprout only in an officially sanctioned garden is to wage war on the very strengths of the medium you’re using to get your message across.²⁹

Some fans in the mailing list to be discussed in Chapter Five agree. As one fan puts it: “of course, a Simpsons web site wouldn’t be worth too much if it completely avoided using Fox property, so the order amounts to the same thing as ‘shut down the site.’” (10 Oct. 1998) After being asked to remove material from his site, one fan announces that he is creating a new, non-infringing site, but explains: “I never really recovered from the shut downs, so some of the sections still have not been redone and it’s pretty sub par right now.” (15 Nov. 1998) For this reason, many fans decide to simply shut their sites down completely upon receipt of the letter. Fox’s actions have therefore created controversy among fans. Two sites in particular condemn Fox for its action

against fan sites, helping to record some cultural history for newcomers to the online culture of Simpsons' fandom.

Fan Protest: Appropriation and Recoding

One site, which calls itself FIST³⁰ attempts to speak to fans of several Fox programs in hopes of generating a rallying cry loud enough that it will allow fans to collectively make a difference. This site uses no copyrighted images. The opening page consists of starkly contrasting halves: white on the right, black on the left. The right side of the page provides the table of contents. On the left, superimposed over the black background, is a faint message that reads vertically, one word beneath the other: "down come the sites." To read the four words, one must scroll down the page, giving the message a somewhat ominous feel. Furthermore, the fan has chosen a font which looks like decaying red graffiti paint. In fact, the words almost fade into the background because on top of this faded red message is another one, which proclaims:

X-File fans groan. Simpson fans curse loudly. Millenium fans hang their heads. Fox is shutting them all down. Fans are frustrated. Webmasters are distraught. People are outraged. And yet, not one single site that encompasses all these shows has stood up to Fox. No one has said, in one loud voice, "we've had enough"...until now. Raise your voice. Shout your opinion. Show your FIST.³¹

These words are written in a white font that is reminiscent of the typewritten look of underground fanzines. Throughout the other pages of FIST, the typewriter and graffiti font maintain this underground feel. The site describes the crackdown, encourages and

provides instructions for contacting Fox and media organizations, lists sites which have done their part in the cause against Fox, offers awards to sites, and links to relevant media coverage.

Of particular interest is the site's treatment of copyright issues. This site owner does not actually quote copyright law or refer to specific sections of it, but nonetheless reveals an intuitive, common-sensical understanding of copyright issues. As Coombe observes, the law has a "palpable presence when people create their own alternative standards and sanctions governing the use of cultural forms."³² In attempting to convey a sense of legal injustice, the designer essentially appeals to three of the four components used to determine a fair use exemption: one, the purpose and character of the use, including whether such use is of a commercial nature ("The great majority of these sites wanted no money"); two, whether it constitutes merely copying or is instead "productive" or "transformative" ("Fans used the web as a medium of creative expression"); and three, the effect of the use upon the potential market for or value of the copyrighted work ("[fan sites] bolstered Fox's market share").

Similar arguments can be found among other fan sites; such a position represents fans' perceptions of fair use and copyright law. Many fans argue that a website with no commercial intent, which in fact may improve the market for the copyright holder, and which transforms the material creatively, should be considered fair use. They therefore feel the entertainment companies deserve their contempt, and refuse to accept the legal reasons given to them via lawyers explaining the website crackdown. As mentioned earlier, fans temporarily feel a sense of ownership over their favorite popular material,

primarily because they do not simply copy the original text. Fans also see themselves as guardians of the texts they love, purer than the owners in some ways because they seek no profit.³³

Fans often express their sense of what is legally fair and sensible via their copyright disclaimer, which almost invariably accompanies any copyrighted property on fan sites. The sheer pervasiveness of various forms of disclaimers on fan sites testifies to fans' implicit understanding that they are working with material owned by someone else, and that the right thing to do is acknowledge your creative debt to owners of media property. Most often, this disclaimer included is Fox's own. At other times, however, fans write their own informal disclaimers which reveal how they implicitly understand their position relative to the owner of the media material, and to the material they are using. Tushnet refers to this process as the creation of a common law of fair use.

Some fans, for example, acknowledge Fox's ownership by including a disclaimer, but presenting it in a subversive way. One technique is to render the disclaimer nearly invisible, either through the use of font size or background color, or both.³⁴ Another method is to accompany the disclaimer with a popular fan-designed image of Bart Simpson at the blackboard, writing "I will not create web sites that have copyrighted sounds."³⁵ This image enjoys wide popularity among fans because of its subversion of an official component of every Simpsons episode. In the program, the blackboard scene is part of the opening credits, with Bart writing something new each episode. Bart unenthusiastically writes lines until the bell rings, when he drops everything and races out the door. The repetition of the blackboard scene emphasizes Bart's inability to cope

within an often ineffectual schooling system, and the antiquated nature of the punishment: writing lines on a chalkboard. By depicting Bart writing “I will not create web sites that have copyrighted sounds,” the image turns a classic Simpsons gag into a commentary on Fox’s own heavy-handed, unenlightened methods of discipline.

Tushnet claims that such disclaimers allow fans to assert their intermediate positions, which are indebted to, but fundamentally separate from, the corporations that own their beloved shows.³⁶ Similarly, Jenkins asserts that “while fans display a particularly strong attachment to popular narratives, act upon them in ways which make them their own property in some senses, they are also acutely and painfully aware that those fictions do not belong to them and that someone else has the power to do things to those characters that are in direct contradiction to the fans’ own cultural interests.”³⁷

The site with the most insightful (and subversive) commentary on the lack of fit between copyright law and online fan culture is undoubtedly Fūxworld, a fan parody of Fox’s official Simpsons site.³⁸ Every aspect of the official site is mirrored and parodied in Fūxworld. This site easily constitutes the most scathing condemnation of Fox’s actions currently online, and it is famous among online fans for this reason. For example, the Usenet newsgroup *alt.tv.simpsons* has an information site which introduces new online Simpsons fans to the basics of the culture; Fūxworld was declared “Page of the Year” by this site.³⁹ In addition, many fans provide links to Fūxworld from their own sites, often highly recommending it.⁴⁰ For example, one fan writes: “Alive and Kickin’ Butt: transforming protest into parody, the original maintainers of The Simpsons Tree... have morphed their site into an extremely amusing send-up of Foxworld.”⁴¹ Another fan raves,

“magnificent, need I say more? This site is a parody of the official Foxworld site that resembles every feature to a hilarious extent. If you hate Fox for what it does to *Simpson* fan sites, you’ll love Fūxworld. Definately a must see for all, especially after you’ve visited foxworld.com.”⁴² This statement points to the fact that, for the parody to work, the site assumes readers possess a detailed knowledge of the contents of the official site.

Before describing Fūxworld, a quick description of Fox’s official Simpsons site is in order. The main page consists of a large and colorful cartoon map of the town of Springfield, including Springfield Elementary School, Moe’s Tavern and the Simpson Home. If you click on the Simpsons’ house, you travel to a cheerful family portrait of the family in their living room – father Homer, mother Marge, and children, Bart, Lisa and Maggie.⁴³

Similar to the official Fox site, the main page of Fūxworld is a map of Springfield, but a fan-drawn one. The map glows with bright, uplifting colors just like the official site but the drawings are slightly distorted and rough, indicative of the mockery which becomes apparent the moment you begin clicking on the buildings depicted in the map. Like Fox’s site, clicking on the Simpsons home takes you to a picture of the family. However, in this portrait, Homer’s bloody head sits at his feet, while Bart brandishes a butcher knife. Fūxworld changes the characters’ names to Omar, Midge, Bort, Eliza and Magagie.

On both sites, click on any character in the portrait and you receive a personality profile. For example, if you click on Homer on the official site, you will travel to the following description: “As safety inspector in sector 7G at the Springfield Nuclear Power

Plant, Homer's main responsibilities include Snack Machine Monitoring, Clock Watching, Inner-Eyelid Study and Pastry Malfunction Prevention."⁴⁴ Fūxworld parodies this description: "As online content monitor in section 11B at the Sprangfield Hydraulic Plant, Omar's main responsibilities include Lawsuit Initiating, Nit-Picking, Copyright Infringement Detail and Cease-and-Desist Letter Sending."⁴⁵

The official site announces that Homer was "voted Springfield Nuclear Power Plant Toxic Waste Handler of the Month in October of 1990"⁴⁶ while the Fūxworld site claims that Omar was voted "Most Litigious" and "Most Likely to Shut Down Harmless Fan Websites."⁴⁷ While the official site claims that mother Marge manages to stretch Homer's modest salary to cover the tremendous costs incurred by a family of the 90's,⁴⁸ Fūxworld's "Midge" uses "what is left of Omar's salary to funnel away and spend on her crack ;" she also peddles "narcotics to schoolchildren."⁴⁹

From the same cartoon map on both sites, you can also click on the elementary school; this takes you to a trivia quiz on the program. In addition to mocking the questions on the official quiz, the Fūxworld quiz creates a few extra ones, such as:

Who are the official lawyers for the greatest network on Earth, Fūx?

- a) Doowie, Cheatum, and Howe
- b) Banker and Hustler
- c) Bulliem, Threatenum & Payus
- d) 4 Goons and an email account

What is the first amendment?

- a) The right to freedom of expression
- b) irrelevant
- c) irrelevant
- d) irrelevant⁵⁰

Fūxworld also mocks Fox's attempt to sell merchandise on the official site. For example, the official site promotes the sale of home videotapes: "now you can invite America's favorite dysfunctional family into your home whenever you want."⁵¹ In a parodic advertisement, Fūxworld proclaims:

You, being smart guy, says, 'I have them all on tape, why would I need them?' Well, see, what we did was make sure that there were parts cut out in syndication, and it's very unlikely that you have been taping them since 1989. Therefore, we are very sure that you will pay 10 bucks for every two episodes for about 5 seconds of new footage. It's all capitalism, my friend.⁵²

Perhaps Fūxworld's most telling parody is that of the legal disclaimer, which reads:

Copyright © 1997, Fūx Entertainment Broadcasting Affiliation and Hierarchy for the Proviso of the eradication of the Last Bastion of Free Speech Inc., All Rights Reserved. Any duplication of contents on this website, via computer web services, ftp, gopher, e-mail, telephone, FAX, answering machine tape, speaking of it to your friends, relatives, or enemies, Xerox or mimeograph, flash photography, mind meld, iron transferable t-shirt, radiation tattoo, or any other forms of enjoyment of this site are strictly prohibited.⁵³

This serves as a commentary on the ridiculously long arm of copyright law, and Fox's apparent intentions to take advantage of all possible legal rights. This disclaimer performs significant recoding: Fox's desire to protect its property becomes eradication of free speech, and preclusion of all forms of enjoyment.

Thus, the site is successfully parodic while avoiding any direct reproduction of any official materials. However, Fox is not merely concerned with straight reproduction of its copyrighted signifiers: it also wants to control signifiers' connotations. Fox considers "copying *or altering* [italics mine] photographs, images, designs, and logos from programs in a manner that denigrates the programs" to be sufficient reason to ask the site to close down.⁵⁴ Thus, Fox could conceivably argue that although the character designs and font from the Fuxworld site are unique, they are sufficiently reminiscent of official Fox signifiers to constitute "denigration." Such resemblance is, of course, the point of the parody. However, in essence, Fox has a high level of control over fan sites, if and when they choose to act. The cooperation of internet service providers suffices to back up any legal threats and stifle opposition.

FIST and Fuxworld are only two of the best-known protest sites for fans of The Simpsons or other Fox programs. Several other protest sites exist, designed by fans who have been affected by the crackdown. At the top of one such site, designed by an X-Files fan, bright yellow letters announce: "THIS X-FILES PAGE HAS BEEN FORCEABLY SHUT DOWN UNDER THREAT OF LAWSUIT BY TWENTIETH CENTURY FOX."⁵⁵ Like other X-Files and Star Trek pages that avoid the use of any copyrighted signifiers, this site offers a unique wallpaper created by the fan. This particular

background features the messages “shutting down X-Files sites” and “FOXTV threatens lawsuits” repeatedly written diagonally, red on a black background.

Also, like other fans, this protester attempts to expose what he perceives to be hypocrisy; he believes that Fox’s actions are at odds with the very content of the programs it airs. Many X-Files fans complain that they can not freely appropriate materials from a program which itself comments on the oppressive nature of large institutions. This particular fan announces:

Yes Folks, it has finally happened ... the very people who propagate a television show which espouses the crushing, oppressive conspiracies of a big-brother government run amok, stifling the common man for the good of a bigger purpose, has finally dropped its almighty weight upon my back. Yes, I’m talking about TWENTIETH CENTURY FOX and it’s newest casualty -- ME!⁵⁶

Similarly, some Star Trek fans condemn Paramount /Viacom for the crackdown on their fan sites by using Gene Roddenberry’s vision of “Infinite Diversity In Infinite Combination” to point to the corporation’s hypocrisy. One fan quotes from Gene Roddenberry’s opening statement in the Star Trek: The Next Generation Writer/Director’s Guide: “Star Trek will continue to look for ways to encourage writers in the future” and comments: “funny what a major corporation will do to honor the creation of a great man five years after his death.”⁵⁷

To underscore their sense of corporate hypocrisy, several X-Files and Star Trek fans have appropriated official program discourse for use as a rallying cry against Fox

and Paramount/Viacom, respectively. Amy Harmon suggests that, “in using slogans from X-Files and Millennium, fans are picking up the tools of parody.”⁵⁸ Many of the sites proclaim “free speech is out there,” playing on “the truth is out there”; a line instantly recognizable to fans of the series.

Such mass-circulated discourse is incorporated into these protest sites through a humorous process of resignification. Coombe notes that through irony, mockery, parody, pastiche, and alternative modes of appreciation, activities of creative appropriation enable fans to comment indirectly on what they find salient.⁵⁹ In this case, fans’ usage of recognizable slogans is their way of commenting on the relationship between corporations, corporate-owned media signifiers, and the public. Fans’ choice of signifier with which to identify can therefore be very telling.

For example, Online Freedom Federation, an organization of Star Trek fans formed in 1997, appropriate of Capt. Jean-Luc Picard, a Star Trek character. Fans quote the Captain, appropriating his voice to comment on Paramount actions: “They invade our space, and we fall back. They assimilate entire worlds, and we fall back. Not again. The line must be drawn here!”⁶⁰ A protest page called Red Alert similarly appropriates the words of Capt. Picard: “With the first link, a chain is forged. The first speech censored, the first thought forbidden, the first freedom denied, chains us all irrevocably.”⁶¹

X-Files fans identify with Fox Mulder, an FBI agent striving to conduct research that the American government finds deeply troubling. Like Mulder, fans perceive themselves as the underdogs, rallying against an all-powerful institutional entity which intends to suppress them. Fans’ appropriation of Mulder’s cry “They’re shutting us

down,” reveals their willingness to joke about their sense of powerlessness in face of institutional attempts to deny them a voice.

Fans accuse Fox of using intellectual property law to control every possible usage of their material online. In fact, a rumor circulates among some fans who believe the crackdown is actually an attempt to generate more traffic for the official Fox site (rather than a concern for copyright per se) which advertises videos and other merchandise for sale, and which boasts an authenticity, with official signifiers, that many fan sites do not. Amy Harmon reports that “Fox spent more than \$100,000 on its Millennium site, and like many companies eventually may sell promotional materials through it. So the company has a basic economic motive for wanting Internet fans to have fewer places to find series information.”⁶²

To appease fans, Fox’s lawyers claim that Fox will soon be providing a number of Simpsons’ images for download at the Fox web site. Presumably, if and when these images become available on the official site, fans will be able to freely download and incorporate this material on websites, providing the appropriate legal notice and disclaimer accompany it. Although Fox wants to code this action as a show of appreciation to its fans, fans code it in other ways. By restricting the availability of images to those provided on the official site, Fox would not only increase visitors to its site, but increase control over access to its property. Only approved images will be available, and this will curtail the variety and uniqueness of individual fan sites.

Fans of other programs are facing a similar dilemma. One X-Files fan writes: “It is becoming clear that this is not just a matter of either copyright or trademark ... but that

FOX execs want complete and total control over how every facet of their company is portrayed on the Internet.”⁶³ Another X-Files fan elaborates:

This is not about copyright ... It’s about control of free speech, plain and simple. FOX wants to be your only source of information about the show. Perhaps they realize that in the ranking of sites about The X-Files, their “official” site ranks pretty low. (This isn’t my opinion, it’s the opinion of web reviewers.) In any case, they can’t force people to use their web site by closing down all others. What FOX is doing is the equivalent of, say, closing down sites discussing politics, weather, or sports. Entertainment-based web sites provide information and discussion about celebrities, movies, theater, and television shows. FOX has no right to attempt to stop free speech just because it’s about one of the shows they broadcast.⁶⁴

Unfortunately, according to some fans, “at this rate, it will not be too much longer when most of these unofficial sites will cease to exist.”⁶⁵ Fox claims to encourage fan response to its programs, and thrives on the popularity of its shows; but at the same time, Fox wants such response to occur on terms the corporation sets.

As for Star Trek fans, many feel frustrated that Paramount/Viacom intends to change the terms by which fans can use Star Trek property. According to these fans, not only does the corporation expect that fan activity will occur on its terms, but that it can change, even reverse, those terms at will. One such fan claims that the company “even licensed the Star Trek Welcommittee, a non-profit organization for which one of it’s

many licensed functions was to promote and assist fanzine publishers in producing stories, books, and magazines that were not sanctioned by Paramount.” He writes:

You can’t officially encourage the publication of non-sanctioned materials for more than 20 years and the, all of a sudden, change your mind. There’s no way that will hold up in court. Unfortunately, we’ll probably never learn that - it’s extremely likely that Paramount’s lawsuit will drive Citadel Press into bankruptcy, and therefore end the litigation without any decision being reached, and probably without either company setting foot in the court room.⁶⁶

Others are similarly angered by the fact that fans do not have an opportunity to be heard when lawyers attack. One fan complains that his cease and desist letter was e-mailed to him with a note that any e-mail replies to the message would be ignored. The fan writes: “To me, that is a cowardly act - the ‘powers that be’ do not wish to receive hundreds of email messages objecting to FOX’s request, knowing full well, that most people will not take the time to write a formal letter and mail it to their law office.”⁶⁷ Another fan writes: “I think Fox are fully prepared for any problems they may face... who will take on a multimillion company in a legal struggle?” (17 Sept 1998).

One could speculate as to what would happen if such a case ever went to trial. The 1984 Supreme Court decision in *Sony Corp. of America vs. Universal City Studios* is illuminating here: the court ruled that use of videotape recorders did not infringe on Universal’s copyrights because there was no evidence to suggest that video-cassette recorders harmed the potential market for the copyrighted works. It remains to be seen

how the technology of the Internet will be interpreted within case law in terms of its effect on the market and the rights of owners.

The power of companies like Fox and Paramount to get what they want without a court hearing is a concern shared by legal theorists like Coombe, who states that

arguably, fewer and fewer defenses are available in intellectual property infringement actions; free speech defenses are inconsistently interpreted and often dismissed without due consideration. More troubling, however, is the likelihood that freedom of expression arguments will not even be asserted. In most cases, the dispute will never be tried on its merits. Faced with the threat of legal action, most local parodists, political activists, and satirical bootleggers will cease their activities.⁶⁸

Are media companies pushing their rights too far? Some online fans who have been shut down by Fox express their support for the corporations' need to protect its interests from unauthorized usages. However, even some of these supportive fans are beginning to have a change of heart due to recent actions against fan writing. According to these fans, unlike the inclusion of copyrighted material on websites (which they perceive as direct reproduction), fan writing puts original copyrighted elements through a process of transformation and creative work. For example, Jason Ellis, of TREKNEWS.COM, a fan-organized disseminator of Star Trek news, writes:

When Viacom began issuing cease and desist orders to web sites that violated Paramount copyright, TREKNEWS.COM chose to ignore the issue. We believed then, as we still do, that Paramount has every right to protect

their copyrighted photographs, audio files, video files, and other works from illegal use on the internet.

However, we firmly believe that this copyright protection, according to the law, extends only to works that were produced by Paramount directly. It has always been our opinion that if a fan wrote, drew, or otherwise created a Star Trek-related item, then it was that fan who holds the copyrights to his work - he did it, why should Paramount have any claim on it at all? Increasingly, corporations have the legal right to control the meaning of their property .⁶⁹

Thus, even some fans who found themselves able to support action against the use of copyrighted images and clips on websites are not able to support companies who extend intellectual property rights as far as possible. As Jessica Litman argues, “copyright law should seem sensible and just to the people we are asking to obey them.”⁷⁰ Tushnet agrees, claiming that laws should, wherever practicable, make sense. She refers to the example of Fox’s shut-down of Trevizo’s Millenium site, claiming that frustration with copyright law is demonstrated by the outraged reaction of thousands of fans who responded to the shut down. Tushnet states that “when copyright law is enforced by corporate lawyers asserting the broadest possible rights,” this “can only exacerbate the average citizen’s frustration with and perhaps rejection of copyright law as a whole.”⁷¹

Even creator Matt Groening has mixed feelings about Fox’s heavy-handed protection of Simpsons property. In 1990, during the height of the bootleg Bart Simpson t-shirts, the creator was “flattered” by the street response, though he admitted he had a sense of being ripped off due to the size of the bootleg operation at the time.⁷²

Nonetheless, he commented, “the creativity of the way people respond to the show is fantastic. You should see the fan mail. Kids send in their pictures of Bart beating up other cartoon characters.”⁷³ In addition, according to Antonia Coffman, a spokeswoman for Fox TV Groening actually collects “bootleg” items like Mexican piñatas in the shape of Bart.⁷⁴ As one fan puts it, despite Groening’s appreciation of fan appropriation, “if corporate lawyers call the shots, the subculture that amuses Groening could become an endangered species.”⁷⁵

While corporate attempts to limit fan appropriation of program material are often resisted via protest sites and recoding, fans do not have the power to legally contest the threats made against their activity: fans can protest corporate actions discursively but not legally. The increasing legal power of corporations to control usage of their property has some legal theorists concerned. This battle between corporations and fans over mass-circulated signifiers will be linked to some cultural studies and critical legal scholarship in Chapter Six.

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⁴³ Fox, 1996. <<http://www.foxworld.com/simpsons/>> (Aug. 1998). Note: click on yellow Simpson house

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⁴⁵ Fuxworld, "Fux brings you the best," Note: click on yellow Sampson house, then on Omar, headless, on couch

⁴⁶ Fox. Note: click on Simpson house, then on Homer

⁴⁷ Fuxworld. Note: click on Sampson house, then on Omar

⁴⁸ Fox. Note: click on Simpson house, then on Marge

⁴⁹ Fuxworld. Note: click on Sampson house, then on Midge

⁵⁰ Fuxworld, "Fux brings you the best," Note: click on school, then take the quiz

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⁷⁰ Jessica Litman, "Revising Copyright Law for the Information Age," Oregon Law Review 75 (1996): 39.

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CHAPTER 5: FAN PLEASURE IN THE DISCUSSION GROUP

This chapter looks at an online discussion group on The Simpsons, revealing the relationship between fan activity and the ownership and production of the program. The first section describes the culture of the mailing list by outlining certain understood codes of behavior shared by group members. Within this culture, Fox's legal threats to fan activity generate some discussion but other topics recur more often. It is suggested that fans prefer to explore aspects of the program which relate more closely to their pleasure and interpretive work rather than discussing issues of power and ownership. Fans enjoy talking about the creative team behind the show, the writing process, and creator Matt Groening. Posts will be quoted to show that fans offer interpretations of episodes and scenes based on their knowledge of the writers and the production process. Furthermore, these online fans have easy access to articles and interviews concerning the show, which are posted throughout cyberspace and referred to by group members. As a result, fans' knowledge of the production process and the intentions of the creative team both generate and limits discussion on the list.

Mailing List Culture

As previously mentioned, the discussion group is an electronic mailing list devoted to The Simpsons. This culture was studied through participant observation for one year, from April 1998 to April 1999. Within that time frame, most of the messages saved and quoted in this analysis were posted between June 1998 and January 1999. Posters discuss anything of interest pertaining to The Simpsons; some examples include

one episode's portrayal of Jewish people, the background of a secondary character named Snake, and the program's allusions to other popular culture texts such as Stanley Kubrick's Dr. Strangelove.

Electronic mail (e-mail) has rapidly become a popular way to communicate. Faster and more efficient than paper mail, e-mail is an a-synchronous means of writing messages through a computer. Currently, an increasing number of individuals use e-mail because internet service providers often offer a free account to subscribers. Online fans of The Simpsons become familiar with groups such as this list simply by surfing. To join this list, the fan simply sends a message to a particular address, and is automatically added to the list. Participation is of course free. Members then go through a series of steps in which they select settings such as a pseudonym and how often they wish to receive messages. To post a message, members send to one central address: the messages are then sent to everyone on the list.

Through this system, fans receive approximately thirty e-mail messages daily from other fans; they are free to either read without responding (lurk) or post responses. Some members only read messages which interest them depending on what is entered on the subject line at the header of the message; others read everything. Participants can read the messages either through their current e-mail software, or at a website where an archive of messages are kept, accessible only by subscribers.

List members generally respect each other's opinions, creating a friendly environment that welcomes newcomers. This is one perceived difference between the list and the much older alt.tv.simpsons, a Usenet newsgroup also devoted to discussion of

The Simpsons. In fact, the list was created by Simpsons fans to provide an alternate space in which to converse about the program. As one list subscriber puts it: “ [in my opinion, alt.tv.simpsons] is a mildly hostile atmosphere where I don’t feel extremely welcome. The regulars wield their opinions so strongly... that I feel my own views on the show would be seem petty. Here, the mood is lighter, more open, and certainly, more fun.” (28 Sept. 1998)

Part of the reason for this lighter mood is the fact that the list is “moderated”; messages sent to the central address are not automatically distributed to members. Two Simpsons fans devote their time to receiving, reading, and filtering the messages, most of which are then sent out to subscribers. The moderators take out the “spam and the junk” and leave subscribers with “pure Simpsons goodness”: there are no obscenities, advertisements, or anything deemed inappropriate for a list that includes children.¹ The atmosphere is also upheld by long-time subscribers who are open and friendly to new subscribers, yet quick to upbraid rude posters unfamiliar with the list’s friendly culture. Offensive posters are told to join alt.tv.simpsons.

Before joining the group, new members are expected to read The FAQ, an online list of frequently answered questions which familiarizes newcomers with the list’s rules. For example, posters are not allowed to send attachments such as images or sound files, or type in all capital letters. Members are supposed to quote the post to which they are responding, and reply with more than one-line answers in order to keep the flow of the posts intelligible.

More important than the technical rules of posting, certain topics are discouraged. These subjects are ones which have been over-discussed, “beaten to death.” For example, long-time fans understand that the program is set in a fictional town called Springfield. Asking “where is Springfield?” in terms of an actual geographic location therefore occasionally invites angered responses. Fans are expected to know that the series’ creator Matt Groening named the town “Springfield” because there are a number of towns of that name in the United States, and he did not want the town to have a specific geographic counterpart.

As another example, fans are expected to understand that one of the characters, Waylon Smithers, is a gay man in love with his heartless boss, owner of the Springfield Nuclear Power Plant, Montgomery Burns. The FAQ reminds subscribers that if they ask whether or not Smithers is gay, “it will be clear to everyone else that you haven’t done your homework, and you’re likely to get ignored, flamed, or, if you’re really unlucky, have your intelligence compared unfavorably to Ralph Wiggum’s.”² In general, any information contained in the FAQ should not be asked on the list, including the meaning of well-known abbreviations such as OFF (Our Favorite Family), SNPP (Springfield Nuclear Power Plant), MG (Matt Groening), IMO (In My Opinion) and IMHO (In My Humble Opinion).³

Web Wars

Other than a few ground rules, fans are free to bring up any topics of interest to them. Nonetheless, as with any culture, observation over time reveals certain patterns of interaction. One such subject is the crackdown on fan sites by media companies such as

Fox. Unlike the protest sites described earlier, posts to this group reveal a diverse set of attitudes towards Fox: although some fans express anger, many others support Fox's right to protect its property and consider the crackdown to be justified and fair.

Supporters: Knowledge of Copyright Law

Some mailing list fans report that they have had to shut down their websites containing Fox material – such as stationary-frame images, animated images, cursors or icons, background wallpaper or sound and video clips – but many nevertheless accept that Fox owns the property and therefore has the right to protect it. Many are comfortable conducting their activity within the legal and discursive parameters set by Fox; they respect Fox's legal rights and perceive the company's actions as fair.

For example, fans have noticed that Fox tends to ignore sites with only text and stationary images, as long as they contain no animated material. As one fan puts it, "my understanding is that Fox will generally allow non-animated images from the show to be used if accompanied by a copyright notice indicating Fox's ownership of the images." (8 Sept. 1998) Websites with animations, sounds, or movies, on the other hand, will be targeted. These fans believe that Fox's ownership of the copyright entitles the company to take any protective actions they find necessary; therefore, concentrating on sites with animations and clips is a fair compromise.⁴ These fans make simple, unassailable statements of support for Fox's crackdown on websites:

"As for it not being fair, well, they do own the Simpsons." (11 Sept. 1998)

"Copyrighted material cannot be used by any other person without permission from the owner of the copyright." (8 Sept. 1998)

“What makes anyone think that they should be allowed to use copyrighted images, sounds, etc. without gaining the proper permissions?” (13 Sept. 1998)

“What they do is perfectly legal, that was never a doubt... matt groening sold the copyrights to Fox, giving them all rights to it.” (11 Oct. 1998)

“It’s nice to see that there are so many rebellious people out there, but keep in mind that you are breaking the law. They copyright stuff for a reason... they do have every right to shut your pages down.” (9 Jan. 1999)

“It’s a risk we all take making simpsons sites in the first place.” (10 Jan. 1999)

One fan suggests that fans should accept Fox’s actions because the threats are just a reflection of the current corporate climate: “most corporations protect their logos pretty aggressively due to copyright laws. Fox is no exception but they aren’t any worse than anyone else. If you don’t believe me try setting up a coca-cola website and see how long it takes to be shut down.” (11 Jan. 1999)

Another fan even tries to put himself in the company’s position, and reasons: “I can guarantee that Fox doesn’t relish the idea of shutting down websites... but they have to do it to protect their larger interests, and I can completely understand why.” (8 Sept. 1998) He explains that Fox realizes that it “gets the most exposure for its show by having as many fan sites as possible.” He therefore reasons that the Fox only picks out a few websites and sends orders to remove infringing material “because doing so is necessary to preserve their legal rights against much more important copyright violators.” (11 Sept.

1998) Several others voice this argument at different times during the debates: fans should not be offended by the crackdown because Fox is merely taking action necessary to survive.

These fans tend to have some knowledge of American copyright law, and appeal to their understanding of it in their defense of the crackdown. What follows are straight descriptions of fans' understandings of the law; it is not the intention here to evaluate such articulations. In their arguments, fans who support Fox's actions often claim that fan websites should not be considered "fair use" of Fox's property. In principle, the doctrine of fair use expresses a commitment to free dissemination of ideas as an exception to private right restrictions on the circulation of reproducible culture.⁵ One fan quotes the fair use exemption clause in order to comment upon it: fair use permits use of a copyrighted work for "criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research." (14 Sept. 1998) The fan then argues: "few websites use Simpsons material for the cited purposes (even 'comment' is a stretch), and thus, an argument under 'fair use' collapses at that point. Even assuming that a user could demonstrate a valid 'fair use' purpose, appropriation of animation or sound recordings... would probably fail under the next part of the 'fair use' test." (14 Sept. 1998)

This "next part" of the Copyright Act of 1976 to which this fan and many others refer in their arguments supporting Fox is as follows:

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include: (1) the purpose and character of

the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.⁶

These fans argue that fan sites do not fit under the above categories. For example, the first factor, the purpose and character of the use, includes the issue of whether the use is merely copying or is instead “productive” or “transformative.”⁷ Many fans argue that fan websites do not transform Fox’s property but merely copy it. They distinguish between the inclusion of copyrighted property on fan websites and writing fan fiction, which they perceive as transformative. One fan asserts: “surely there is a difference between using characters in a work of fiction, which if anything is borrowing and expanding on someone’s ideas, and using reproductions of copyrighted images, which strikes me as simply stealing.” (14 Sept. 1998) Another agrees: “there’s a difference between writing a new piece of fiction (albeit with copyrighted characters) and lifting images, sounds, and video clips intact. In both cases there’s no commercial benefit or profit, but with the Star Trek fanfic, there’s some creative aspect coming from the individual writer... personally, I see very few sites that are really creative, though some Simpsons sites are among them.” (14 Sept. 1998)

One fan argues that instead of transforming copyrighted images or clips, “fan sites simply offer them as ‘snippets’ of the show, thus diluting any ‘fair use’ ‘transformation’ argument. By contrast, a rap musician that samples a few seconds of music and uses that

to create an entirely new song would have a better 'fair use' claim." (14 Sept. 1998)

Another even uses sarcasm to emphasize his belief that fans should express themselves creatively rather than relying on pre-packaged material: "and heaven forbid the Net have ACTUAL CONTENT! Why, we might actually have to be witty!! Or even creative!! They can't possibly be asking us disgruntled Gen-Xers to string words and ideas into argument and expression!!" (17 Sept. 1998)

The third factor weighs the amount and substantiality of the portion used in relation to the copyrighted work as a whole. Fair usage of a work involves taking only what is necessary for the purpose of the use. One fan claims that

it is difficult to justify using, say, animations, unless the purpose of the comment is to discuss characteristics of the animation itself (which is unusual for fansites.) Usually, the purpose is just to 'have a picture of Homer in his cowboy hat on my webpage,' and a five or ten second animation greatly exceeds that purpose – but a still from the show might not. (14 Sept. 1998)

Fans also support Fox by referring to the fourth factor, the effect of the use upon the potential market for or value of the copyrighted work, claiming that fan sites can cause market harm: "suppose Fox wanted to market a CDROM chock full of sounds, videos, pictures, etc. How well do you think it would sell if all of the clips were already available for free on a fan site?" (14 Sept. 1998) Another fan writes:

I recently stumbled across a 'Seinfeld Screensaver' package being sold under license...allowing free use by fans of the same sorts of sound clips or animations from The Simpsons means that the commercial value of a

screensaver package like the Seinfeld one is substantially diminished, should Fox ever decide to license one... People who have the whole Stonecutters song in a .wav file available take away a portion of the commercial value of the Songs in the Key of Springfield CD. (14 Sept. 1998)

Fans who support Fox do not understand why other fans wish to resist the crackdown.

One fan asks: "there's got to be some way that they can't shut us down? any body know?" (11 Jan. 1999) The response: "sure there is. Just remove all sounds from your site." (11 Jan. 1999)

Detractors: Violation of Fairness

The fans who support Fox are capable of marshalling legal knowledge in their arguments; by contrast, fans who disagree with Fox's actions are more likely to simply express a feeling that the law is not fair and does not make sense. Rebecca Tushnet argues that most people, because they are working outside the law's field of vision, act on concepts of fairness rather than on a well-defined understanding of legality.⁸ For example, one fan simply states: "there are so many simpson's lovers out there... and you just can't shut down those sites." (11 Sept. 1998)

Many fans wonder why Fox would issue legal threats to fans who essentially give the program free publicity via their websites:

what I don't understand about the web site shutdowns is the sites aren't giving The Simpsons negative publicity. They're just showing respect to one of they're favorite shows, they get people interested in they're show and make

them want to watch. If anything they should be supporting these sites! (13 Sept. 1998)

A similar sentiment is echoed by another fan: "I hate fox's "you-advertise-our-shows-for-free-and-we-take-your-ass-to-court" policy. I mean, come ON! Do you think we are going to take down the whole operation by putting a picture of Ralph eating paste on a website who's address is

"http://www.geo-metropolis.com/continent#9356/country#86594/state#3422/city#0024/village#11847/street#979572/apartment#3295730/room#3.141592653.html." (16 Sept. 1998)

Fans feel that Fox owes them more respect, not just because of the publicity provided on fan sites, but because of the amount of money fans spend on Simpsons-related products: "I'm really starting to get annoyed at Fox, I have spent at least 8,500 uk pounds on simpson merchandise alone, being a collector, and this is how you re-pay me?... we have shown loyalty... sorry, am I allowed to say 'SIMPSONS' or will I get a letter?" (11 Jan. 1999) Unfortunately, the legal machinery which supports corporate policing of cultural property is not built around the individual citizen's sense of fairness or reciprocity but increasingly around the interests of copyright owners.⁹

A few fans claim that they ignore Fox's threats, and encourage others to do the same:

don't let them threaten and intimidate... most people will comply for fear of getting in 'trouble' (remnants of our elementary school training). No one

wants to get in trouble, but if you simply ignore the requests they will probably move on to another webmaster who will comply.” (9 Jan. 1999)

Unfortunately, this is not quite correct; as mentioned, Fox has the power to shut down sites by contacting the fan’s internet service provider. The bottom line is that Fox has not yet had to carry through with any threats, perhaps because of the compliance of fans in removing questionable materials. Some fans worry about this: “just be careful out there, because corporations make empty threats for only so long. They will make an example out of someone and haul yer arse into court.” (11 Jan. 1999) In actuality, it is not likely that a fan would ever take such a case that far. As one fan puts it, “they cannot take every one to court so the scare tactic is the cheap way, getting as many webmasters as possible to ‘volunteer’ to remove their controversial materials from the site.” (9 Jan. 1999) Some critical legal scholars are similarly concerned about the imbalance of power between copyright owners and the public.¹⁰ Also, like many of the fans discussed in Chapter Four, some fans in the discussion group feel that Fox wants to decrease the amount of competition for the official Foxworld site: “they’re probably taking these sites away because they know they official site REALLY SUCKS!!!!” (13 Sept. 1998)

Fans’ Sense of Powerlessness

Surprisingly, discussion of the Fox crackdown on fan sites constitutes a small portion of mailing list activity. In fact, participant observation of this group was conducted with the expectation that these issues would constitute a central concern for fans especially in light of the cultural studies literature which emphasizes fandom as resistant and critical. This literature will therefore be reassessed in Chapter Six. Because

discussing Fox's control and ownership over its property is not a high priority for these fans, the following sections deal with topics which do recur on the list. In the following analysis, the occasional conversations about Fox or copyright issues are contextualized within the mailing list culture. As will be shown, many fans prefer to spend their time discussing the program itself and their responses to it, rather than taking issue with Fox's ability to limit fan expression. Observation of this group suggests one possible explanation: those who are angered at Fox's actions understand their powerlessness in relation to media companies and the legal system which supports them. The empire of which Fox is a part, News Corp, was outlined in Chapter Four. Here, fans' reactions to Rupert Murdoch are described in order to suggest that, to fans, discussing the limitations placed on their activity is a somewhat futile endeavor. Fans in the list perceive News Corp and Fox to be large, powerful, and untouchable entities.

Fans occasionally discuss Murdoch because of his prominence as a public figure and his relation to Fox. When fans do discuss him, they express sharp criticism and disgust. Fans share an intense dislike for this man, who never fails to use his influence to his own financial and personal advantage. According to some fans, Murdoch's tremendous media power allows him to maintain as positive an image as possible while he furthers his own financial interests with questionable ethics. One fan summarizes this position: "I, for one, am disgusted by many of his amoral opportunistic decisions related to broadcasting." (27 July 1998)

As another example, one fan mentions the cancellation of publication of a book by former Hong Kong governor Chris Patten by Murdoch's publishing company,

HarperCollins. This fan goes on to state that the book was critical of the Chinese leadership; Murdoch found this criticism problematic because of his interests in establishing ties with East Asia for broadcasting purposes. Another poster explains: “Rupert Murdoch (a man more evil than Bill Gates) routinely kowtows to the Communist leadership of China. The biggest example of this is when he yanked BBC World off of the Star system because some of the documentaries had offended the Beijing leadership and Murdoch didn’t want to jeopardize his potential market of 1.2 billion souls.” (8 Nov. 1998)

According to fans, Murdoch has two goals in life: making money and looking good: “frankly I detest the guy. Not only has he got *WAY* too much money, but he always seems to come across as the sort of creep who is willing to do anything to save a dollar.” (28 July 1998) When fans heard that Murdoch himself would make a guest appearance on The Simpsons in 1999, criticism of the media mogul ensued. “The guy’s a scumbag and it wouldn’t surprise me if he is making an appearance to make him look more cuddly and down-to-earth. I hope they skewer the weasel.” (27 July 1998)

Negative comments such as these are combined with an underlying, implicit recognition that Murdoch’s powerfulness makes him an untouchable figure: despite their heated objections to the mogul’s lack of morals, fans seem to believe that, as the head of the corporation which owns Twentieth Century Fox Film Corporation, which in turn owns their favorite show, he can do what he wants. One fan writes: “as head of a multi-million dollar conglomerate, I don’t think he worries too much about the day to day running of his companies.” Instead, this fan jokes that Murdoch’s biggest worries are

“being filthy rich, and promoting his immediate family to other top positions in his empire.” (28 July 1998) Another fan expresses his belief that even The Simpsons production team is in awe of Murdoch’s power: “Sure, OFF makes fun of Fox from time to time, but not the man behind Fox. Too much and they might incur the wrath of that person, and who knows where they’ll be.” (29 June 1998)

An intermediary player between Murdoch and fans is Fox. One fan refers to the televisual omnipresence of Fox: “I’ve noticed the FX logo. And the Fox Network logo. And the Fox Sports Network Logo. And the Fox News Channel Logo. And the Fox Family Channel Logo. And the Fox Sports World Logo. The Invasion of Fox has succeeded! Aaugh!” (28 Oct. 1998). Another fan refers to “the contemptible Fox tyranny” (14 Aug. 1998). One fan expresses his frustration with television censorship and programming decisions when he mentions that an episode, *The Cartridge Family*, banned in most countries due to its handling of gun ownership and usage, will be airing in the United States on syndication: “now is a good time to record it... who knows how much longer Fox and our ‘great’ government of ours will allow it.” (3 Nov. 1998) Fans use the list to vent frustrations, but on the whole, they accept the fact that there is a large and powerful media entity behind The Simpsons which shapes the possibilities of their activity.

Behind-the-Scenes Knowledge

As mentioned, because grappling with issues of media ownership and copyright feels futile, fans prefer to discuss aspects of the show that have a direct relationship to their pleasure as viewers and fans. One of the most common topics on the list is behind-

the-scenes information: in the online culture, being a Simpsons fan means being interested in and showing knowledge of the production and writing process. Fans are more interested in the people who create the episodes than in the corporate entity which owns the program. Fans' knowledge of how the episodes are written, of members of the creative team, and of secondary texts about the program all shape fan discussion. When discussing their responses to episodes, fans enjoy speculating on the intentions of the writers, the producers, the music composer, and the creator Matt Groening. Fans' reactions to the program get debated, rejected and supported, according to the "authoritativeness" of the interpretation; "authoritative" interpretations are often ones which are backed up by some knowledge of the production team or process.

Knowledge of the program's production process affects fans' interpretations. For example, fan interpretation of plot inconsistencies¹¹ is sometimes mediated by their understanding of how the program is produced. Fans generally claim that continuity makes the episodes more realistic; they therefore dislike when a character appears in an episode seemingly out of nowhere, or when someone says something out of character. One fan explains such inconsistencies within Simpsons episodes by speculating that the writers sometimes do not "adhere to the laws of physics or reality as we know them." Instead, they enjoy "playing with and exploiting television/film conventions for the sole purpose of making us laugh." (18 Aug. 1998) Another fan provides more authoritative information to explain the program's occasional lack of continuity by stating that the writing staff is constantly changing: "The Simpsons prides itself on having a quick turnover with its writing staff - I've read many an interview with Groening and Co.

saying that a quick turnover equals unparalleled freshness. There have been dozens of writers.” (20 June 1998)

Yet another fan elaborates further by saying that despite the turnover, a reasonable degree of continuity is maintained because

there are many writers who have lasted throughout numerous seasons. John Swartzwelder has been on staff since the beginning. Even though each episode has one name attached as the main writer, it does not mean that he sat in a dark room all by himself and wrote the whole thing without any assistance. When it is time to write a new season, all of the writers for that season get together on a retreat and throw out ideas...all of the writers review them to make sure continuity is retained.” (20 June 1998)

In this sense, fans shape their responses to and interpretations of episode discontinuities by reference to official information about the writing process. Fans who are familiar with how episodes are written often believe that occasional inconsistencies should be expected: “we should just be thankful that they get as much correct as they do.” (16 Aug. 1998) This points to another conservative aspect to fandom on this list. Fans do not feel completely free to create their own interpretations, preferring instead to ally their responses as closely as possible with factual information about how the show is produced. As will be shown, fans delimit the possibilities of their responses to the program in several ways.

As another example, one fan asks the group: “did anyone notice that homers hair line above his ear and his actual ear spell out the initials ‘M.G.’ (MATT GROENING)! In

this coincidence, intentional, or me seeing things?” (11 Aug. 1998) This fan is trying to verify whether or not his interpretation is valid by appealing to other fans for their knowledge of Groening’s intentions. Some fans answered by referring to authoritative sources. One fan mentioned a short segment he viewed on Fox where Groening “drew a quick version of homer, in which he pointed out that the hair and ear are his initials.” (11 Aug. 1998) Another fan claims that his reaction to a scene in “Viva Ned Flanders” was altered by his particular behind-the-scenes knowledge: “that scene, for me, was especially funny because I recently read an interview with a producer of the show who said that Don Rickles was the only celebrity who turned them down when they asked him to do a voice. Seems they got their revenge: not only did they use an impersonated voice, they treated him like crap.” (13 Jan 1999).

Even for fans who join the list without prior knowledge of behind-the-scenes information, references to such information are made immediately available by other fans. As will be discussed at the end of this chapter, there are several parallels between the intentions of the production team and fan activity. Perhaps these parallels are especially strong for online groups, where the very atmosphere of the Internet encourages easy access to secondary texts such as articles and interviews. Online Simpsons fans have created growing warehouses of Simpsons information, and individual fan groups such as this discussion group link up to this information by referring group members to “authoritative” websites.

The mailing list FAQ recommends that all newcomers familiarize themselves with The Simpsons Archive, “the unofficial-but-pretty-much-authoritative Simpsons

resource on the internet... learn it, live it, love it.”¹² The Simpsons Archive is a rich and thorough website which claims to be “the Internet’s premier source of Simpsons info.” It is voluntarily maintained by Simpsons fans, and houses documents created and maintained over the years by fans of the show. Thus, for newcomers to online Simpsons fandom, the FAQ’s reference to The Simpsons Archive tends to ensure an immediate introduction to the workings of the program’s creative team. The Archive offers an impressive wealth of authoritative information from which to choose, such as “The Simpsons Complete Bibliography: A thorough reference to every magazine article, interview or other feature which The Simpsons has been mentioned in”; “Writers & Directors: List of writers and directors of each episode”; and “Episodes by Writer: List of episodes sorted by the writers.”¹³

Many fans on the list have their own copies of secondary texts, published by Matt Groening, which act as background information to the aired episodes. These publications offer details on episode plots, characters, the town of Springfield, and other information fans use to guide the interpretations of episodes. A list of all the texts produced by Matt Groening is included on The Simpsons Archive, and fans in the mailing list encourage each other to read this material. For example, one fan suggests: “I recommend you get the book “The Simpsons - A Complete Guide to Our Favorite Family.” (15 Aug. 1998) Fans structure their reactions to and discussions of the program according to any information they can find from sources such as directors, producers and writers.

Distance From Official Sources

Despite their familiarity with production discourse, fans share a feeling of distance from “OFFICIAL sources” of information, from “authoritative” answers to questions. As Jenkins writes, fans recognize that their relationship to the text remains a tentative one, that their pleasures often exist on the margins of the original text and in the face of the producers’ own efforts to regulate its meanings.¹⁴ For example, in response to a fan request for the addresses of producers, writers, directors and voicers, one fan writes: “IMHO I dont think the simpsons production team would like just anybody writing to them, these are professional people, any anywhoo, I think all you would get is a signed autograph - they are busy people so I doubt they would have time to send a reply!” (19 Aug. 1998)

This sense of distance is revealed by fans’ inherent mistrust of rumors. For example, as one fan states, “NEVER believe a rumor unless you can get it from a quote from someone important (eg MG or FOX or Sam Simon.)” (22 June 1998) Another writes: “I heard a *probably false* rumor that was circulating around OFF producers that there’d be episodes up to 300, and that ep.300 would be the final one. Doubt its true, but you never know.” (15 Aug. 1998)

As another example, in response to a discussion on whether or not there would be a Simpsons movie in the near future, one of the list’s moderators stepped in and announced:

this rumor has been circulating since February and even some notable publications have featured the story, which they snipped from the Internet.

That does not change the fact that this Internet-originated rumor is false. No movie is currently in production. There hasn't been ANY official statements supporting it. However, during the past two years some members of the staff have changed their viewpoint from 'never going to happen' to 'maybe, but not just yet.' (19 Sept. 1998)

In addition, the FAQ provides links to online articles written by other Simpsons fans. These articles often weigh "unreliable rumors" against "insider information" about the distant worlds of Fox TV, and The Simpsons production team. For example, one article attempts to combat fan-circulated rumors about the delayed release of a new Simpsons CD by providing "authoritative" information about the relationship between the producers of The Simpsons and Fox.¹⁵ Fans who know the most about what writers and producers say about the program enjoy an implicitly higher status, and are able to answer more questions. Fans build up reputations through long-time membership in the group and knowledge of the program in general. Observation over time has revealed that, to these fans, there is something distasteful about fans talking amongst one another without proper guidance from authoritative sources.

Mere Speculation

Because fans realize that it is difficult to determine an intended meaning, they content themselves with debate and discussion, offering interpretations which seem the most plausible depending on their detailed knowledge of the episodes and characters. Therefore, self-deprecating comments and apologies often accompany a personal interpretation for which the writer has no authoritative backing. Some examples include:

“just my opinion”; (June 17 1998) “who knows I could be wrong, just a suggestion”; (22 July 1998); and “just my 4 halfpence, am I way overboard on this?” (20 June 1998).

Offering individual interpretations is considered highly enjoyable but on the whole, is not valued as highly as factual information or authoritative interpretations.

In one thread, fans speculated as to the intentions behind an episode which clearly parodied Lord of the Flies: all the program’s best-known children characters were stranded on an island and left to create a society of their own. Fans debated why the writers had chosen to include all of the familiar children characters, rather than more realistically including a mixture of new, nameless characters just for the episode. One fan claims: “my guess is that its another Simpsonsque writing ‘anomaly’ to get all the best characters into the same episode and one in which the writers assume that no one (except the sharp members of this mailing list) will catch.” (20 June 1998) Another fan counters by claiming that the writers simply avoided explaining why all the children were present in the same episode to focus instead on plot development. He claims the writers wanted to include all the children in order to comment on the consequences of youths leading their own society. (20 June 1998)

As another example, fans were puzzled by an scene in which Homer announces to guest stars Kim Basinger and Alec Baldwin that he has a secret: he can not read. Fans tried to explain what the writers could have meant by this line, considering the number of times Homer has shown an ability to read in previous episodes. One fan offers two possible interpretations: “1. Homer has some strange type of psychosomatic disorder where he thinks he can’t read despite all evidence to the contrary, or 2. When Kim and

Alec ask Homer to keep their secret he felt he needed to tell them a secret as well but couldn't think of any and just came up with a really bad lie as he is wont to do from time to time." (11 Nov. 1998)

For some fans then, discussion does not necessarily have to culminate in a definitive answer. Occasionally, re-hashing old topics that never seem to end conclusively is "fun... it's not doing any real harm." (12 Jan. 1999) The debate about the location of the town of Springfield re-surfaces from time to time despite fans' knowledge that the town is fictional. Fans enjoy making suggestions and eliminating cities based on textual details. One fan comments that if you remain on the list long enough, you will discover that "no topic is ever really put to rest." (16 Dec. 1998) Another agrees: "very true... there's a sort of 'two steps forward, one step back' quality to this list. And really, that's a good thing. If we didn't backslide into topics that have been covered time and time again... we would soon exhaust all the subjects and be forced to quit... and go out and get real lives. I, for one, am not prepared to do that." (16 Dec. 1998)

Furthermore, for some, creating scenarios is enjoyable, though this occurs rarely. One thread, entitled "Ralph Dialogue Challenge" invited fans to write short scenes involving a secondary character in Lisa Simpson's class at Springfield Elementary, Ralph Wiggum. Fans set up scenes and wrote dialogue which they thought humorously captured Ralph's character. Sometimes, fans also suggest possible episode story lines which cover areas they feel have not been explored sufficiently, if at all. One fan makes several suggestions; he wants to see Marge going on more "crusades" in which her world is expanded outside of the home, and suggests a possible takeover or disaster at the town's

nuclear power plant. (21 Sept. 1998)

Some also enjoy creating their own explanations for characters' actions. One thread centered around an inconsistency between one episode in which Lisa desperately wants her ears pierced and another in which she does not. One fan writes, "knowing lisa as we do its perfectly possible that in the time since,... lisa came up with some ethical reason to not get her ears pierced. Perhaps she went to a rodeo and saw a bull with a ring its nose and decided to never get anything pierced out of sympathy or in protest or something. Or maybe she's just scared of needles and only acted like she wanted them pierced at a time when she knew beforehand she wouldn't be allowed." (27 Aug. 1998)

Nonetheless, the bulk of communication on the list consists of relating interpretations to what fans know about the program's writers, and analyzing the text's details. Fiske claims that viewers engage in "dialogic relationships" with television texts in which audiences "resist, negotiate, or evade" the text's power to enforce its preferred meaning.¹⁶ If a text is popular, this means that it has failed to perform its ideological role: it has allowed viewers to activate textual contradictions to serve their cultural interests. The fan activity on this mailing list can hardly be called "resistant" for it seeks to uncover intended meaning while mere speculation, though highly enjoyable for fans, is valued less.

In fact, some fans believe that fans should not bother with extrapolating and guessing if there is no justification for it in the text. One fan states that he prefers factual information to idle speculation: "I wish this group could make a more active role in giving out news instead of petty arguments or 'I think this episode is best.' " (19 Sept.

1998) Another fan is accused of reading too much into the text when he interprets a scene in which “tar fumes” make a character dizzy as a subtle reference to drug usage. One fan mocks this interpretation, claiming that there is no indication in the scene that the writers were trying to make a “super secret clandestine drug reference.” (17 June 1998)

In one discussion, a few fans debated the amount of Homer’s annual income. A few fans suggested possible income brackets and provided rationales. Some pointed to the likelihood that Homer, as a nuclear safety technician, should be paid highly; others speculated he must not earn much because the family is always trying to make ends meet. The brief discussion ended when one fan admonishes: “I have no doubt that the writers of the show never took the time to figure out Homer’s income. So why should we when its obvious that there is no actual number?” (17 June 1998) This same reasoning is used to stop members from discussing the actual location of Springfield, which, as mentioned earlier, is a fictional town; as one fan writes, “this topic is absolutely pointless!” (12 Jan. 1999)

In such a context, it is hardly surprising that much discussion centers around intense analysis of the text’s details. For example, fans test each other’s knowledge of detail through trivia challenges, or appeal to the group for a definitive answer to a question about dialogue, plot or background information on characters. One fan asks for information about a secondary character named Snake: “can anyone else confirm my suspicion that he went to Middlebury College? I think I saw him wearing a shirt in one ep., and when he robbed Moe’s, he said something along the lines of “goodbye college

loans.” (6 Dec. 1998) In another exchange, discussion centered around the exact number of heart attacks Homer had in the episode where he donated a kidney to his father.

As another example, in episode number 5F11 entitled “Das Bus,” Homer sets up his own Internet company. One fan asks for the exact name of this company: “I’ve looked on The Simpsons Archive, and this episode capsule isn’t done. I’ve also looked as many other places as I can think of and I can’t find this. And it’s killing me. Maybe someone out there can help me answer this.” (8 Dec. 1998) Fans also ask each other for exact quotes, providing the scene and the bits of dialogue they can remember. Most times, someone is able to provide a quote of exactly what was said. Often, fans strive to determine what scene or line comes from what episode. One fan asks: “In which episode, and in what context, does Homer say, “I’ve got a hankerin’ for some spankerin?” ” (14 Dec. 1998)

Part of the pleasure of seeking exact details from within the text of the program arises from a sense of pride in knowing the show better than most people. To a certain extent, fans do not merely ask each other for textual details to enrich their own knowledge, but as a way of challenging themselves. They enjoy having to search for the answer to a specific question by surfing the Archive or other sites online. Furthermore, many possess extensive collections of videotapes to which they can refer: some fans have videotaped every single episode to date, others have missed one or two episodes. A few even have the episodes taped in the order they were originally aired, beginning from season one in 1990. Videotape collections are part of the fan’s overall textual resources as

described above: online articles and interviews, The Simpsons Archive, and secondary books written by Groening.

Fan Organization of Creative Intentions

The Vision of Matt Groening

In addition to probing the details of the episodes, for fans, part of understanding The Simpsons as a cultural product involves familiarity with the stated intentions of the creative team. Like their knowledge of how the episodes are produced, keeping up to date with articles and interviews with the producers, writers, animation and music staff contributes to fans' cultural expertise. Because participant observation revealed that fans place a high priority on knowledge of the program's creative team, this next section discusses some of the information that, for online Simpsons fans, constitutes common cultural currency. Analyzing fan commentary on the Fox crackdown at the expense of the rest of the mailing list discussions would distort the nature of this fan activity. In fact, information about the intentions of the creative team shapes fan activity on the mailing list – more so than debates over copyright and the text's ownership – creating a link between the intentions of the production team and fan pleasure. Most of the information was found either directly on a Simpsons fan website, or through a link provided by a fan site: many sites provide articles and interviews conducted by the media to facilitate access by other fans.

Matt Groening, the program's creator, is well-known in the fan community for his outlook on the relationship between the American schooling system and childhood, an outlook which kids and young adults find empowering. He explains: "too many school

rules are arbitrarily assigned just because grown-ups feel kids should be controlled. Most kids are creative and rambunctious enough to realize that these rules are stupid, but they instinctively humor adults.”¹⁷ In fact, the program attracts a young audience in general and has been successful at attracting Fox’s desired audience segment of ages 18 to 49. Although no demographic data is provided by the mediators of the list, one informal poll initiated by list members indicates there are a number of kids who subscribe. Additionally, several subscribers reveal their age by reference to school or other activities.

While revealing his sympathies for kids at school, Groening does not blame individual teachers for arbitrary school rules. He claims that “even the outstanding teachers often get engulfed by the edicts from above, which makes their good work that much more difficult.”¹⁸ Groening’s outlook on the schooling system is part of a larger view of society in which the creativity of individuals gets stifled by the daily routines of life. In this excerpt, the creator articulates his philosophy on how to stay afloat when you feel overwhelmed by the system:

Living creatively is really important to maintain throughout your life... It means being yourself, not just complying with the wishes of other people...even if you have a crummy job, you have to save a part of yourself, maybe a secret part, and do the things you want, so that you can be yourself. I’d like to think that’s one of the hidden messages of The Simpsons. It’s a show about people who don’t know that secret, but the making of the show is an example of that secret. Sometimes people get mad at The Simpsons’

subversive story telling, but there's another message in there, which is a celebration of making wild, funny stories.¹⁹

Many fans are well aware of Groening's somewhat subversive views, but they are also aware that he does not write the episodes. Fans generally do not read Groening's politics into the text because they know that the writing is handled by an ever-changing team. However, fans can often distinguish the work of some of the long-standing writers: "about John Swartzwelder, he is my favorite writer. I can always tell if an episode is by him because each of them are exceptional. My next favorite writer is probably Jon Vitti." (20 June 1998)

Simpsons Satire

Nonetheless, Groening's love of satire and subversion is what characterizes the show: it is the program's willingness to parody society that the fans love most. Groening says that he and the writers "share a vision that our leaders aren't always telling us the truth, that our institutions sometimes fail us, and that people in media don't necessarily have any corner on wisdom - because we're in media ourselves and we know what idiots we are."²⁰ One fan writes: "OFF reminds me of Gulliver's Travels and other works by Jonathan Swift: they can be seen as for children but there is a deep satire there that only a mature and intelligent audience can appreciate." (4 Aug. 1998) Another fan proclaims: "Simpsons fans know that OFF gets away with blasting all segments of the American population with really cutting statements and depictions of current events and situations, celebrities, politicians, etc. I'm glad to know we have a forum on National television dedicated to poking fun at our reality." (23 June 1998)

For example, in a thread entitled “company put-downs,” fans invited one another to recall episodes where The Simpsons writers parodied businesses and corporations. One fan remembers an episode where a character exclaims, “I’m so hungry I could eat at Arby’s!” (6 Aug. 1998) Some of fans’ favorite gags are those which make fun of Fox network, as when Bart comments, “they’ll show anything.” (7 Aug. 1998)

The writers often parody social groups as well: no ethnic or religious group is off-limits. The writers exaggerate cultural stereotypes; for example, Springfield’s Quik-E-Mart is owned by an East Indian man named Apu Nahasameesapetilon who speaks with a thick, stereotypical East-Indian accent. Many fans believe that the writers are not simply making fun of social groups, but of the American tendency to stereotype: “the whole show is a commentary on American society, which, unfortunately, involves stereotypes...I believe the Simpsons do not engage in stereotyping behavior, they parody it.” (3 Aug. 1998)

Mike Scully, executive producer, says, “we try to spread it around, and hopefully if people see all the shows they realize they’re not being singled out.”²¹ This attempt seems to be successful, at least among fans. One fan writes: I don’t think that the Simpsons goes over the line with their stereotypes: especially since they make such a broad range of stereotypes about groups.” (8 Aug. 1998) In fact, fans especially enjoyed episodes where their own ethnic or religious background was parodied. One fan, a self-proclaimed “observant religious Jew,” states that one of his favorite episodes is one which invoked several stereotypes of Jewish people: “While it’s obvious that many stereotypes were used, and of course almost no Jews are really described by them, still

there is a grain of truth in the accents and behavior. Exaggeration only makes it funnier.”
(30 June 1998)

There is a reason why the program enjoys such freedom to satirize. As executive producer Josh Weinstein puts it: “The Simpsons is virtually tamper-proof.”²² Thanks to early negotiation when the show was first beginning, the creative team has a no-interference policy with Fox. This means that Fox has very little input regarding what gets satirized, although there is occasional censoring. Examples of censored material have included an image of a mushroom cloud, an eye-gouging scene, and an off-screen cat explosion. The production process is therefore affected by this particular relationship between The Simpsons creative team and Fox. This degree of satire, resulting in part from an institutional agreement and from writers’ intentions, provides fans with material to discuss and work with.

Freeze-Frame Fun

The producers state that they design some jokes specifically for fans: these jokes are seized upon with great relish in the fan culture. Known as “freeze-frame jokes,” they are brief visual gags which only avid viewers will catch if they videotape the program, as fans do. The Simpsons production team thus claims to cater to this aspect of fan activity. “Sometimes we’ll work on a freeze-frame joke for hours,” says Bill Oakley, Executive Producer. “We’re always trying to put in those layers, which makes multiple viewing fun.” Groening claims that including freeze-frame jokes is their way of rewarding “people for paying attention.”²³

Avid tape-trading and discussion of freeze frame gags fill the newsgroups and websites. As an example, in one version of the opening credits, Simpson mother Marge is grocery shopping with her baby, Maggie, who accidentally gets price-scanned at the checkout. Freeze-framing allows viewers to see that Maggie's price is \$847.63: the price is not visible unless the credits are videotaped and paused at the right moment. Most fans are aware that the writers included this gag because this figure was once given as the amount of money required to raise a baby for one month in the United States.²⁴

Character Realism

In interviews, production staff also claim that they try to make the show's characters realistic even though the show is animated. According to Alf Clausen, the series' musical composer, music helps to sell the reality of the show: "we don't consider The Simpsons a cartoon. These are real people."²⁵ The production team's goal of rendering the characterizations realistic encourages fans to discuss not only the humorous aspects of the show but its relation to real life. As one fan puts it, "one of the main reasons OFF is so good (at least for me) is because the characters are very well defined and well rounded, and act (nearly) like real people would in their situations." (11 June 1998)

Specifically, the realism of the characters encourages viewers to identify with individual characters. For example, some of the fans identify with Lisa: "she reminds us of us. A lot of the Lisa fans I know were all a bunch of nerdy, repressed kids who got beat up... we wandered through childhood put down for our intelligence and morals... she may not be the funniest character in the series... but she is one of the most human." (26 May

1998) One fan discusses the reality of the family unit: “even though they’re all cartoon characters, they do have the dynamics and workings of a real family.” (22 July 1998)

Popular Cultural Allusions

Allusions to other cultural material is a Simpsons trademark: references to movies, art, music and television fill the episodes, providing much material for fans to work with. Alf Clausen, series composer, says these allusions flow naturally in the writing process: “we have a very, very astute set of producers and writers on this show and many of these things are born along with the script.”²⁶ He is referring to the fact that on the average, the writers of the program are highly educated. As one reporter puts it: “It’s a striking fact that at one time, 13 out of the 14 young men writing [the show] were Harvard graduates - in some cases with doctorates in physics and applied maths. Others have been graduates of the writing teams for the literate end of television comedy, including Seinfeld and Saturday Night Live. Competition to work on the show is intense.”²⁷ Matt Groening explains why there are so many allusions in The Simpsons: “a lot of talented writers work on the show, half of them Harvard geeks. And you know, when you study the semiotics of *Through the Looking Glass* or watch every episode of *Star Trek*, you’ve got to make it pay off, so you throw a lot of study references into whatever you do later in life.”²⁸ These allusions constantly generated threads of discussion in the mailing list, and take up much room on websites. The Simpsons Archive, for example, provides a list of allusions made in the episode capsules.²⁹

Many Simpsons fans are well-versed in popular culture in general, not just The Simpsons, and, as with freeze-frame gags, enjoy catching references that others might

miss, and sharing these with other fans. Often, discussions of popular cultural allusions is accompanied by detailed descriptions of referenced texts. For example, discussions of Stanley Kubrick and detailed plot synopses were offered in discussions of Simpsons' references to A Clockwork Orange.

One fan describes an allusion to Twin Peaks, a "serialized hour-long drama on ABC in 1990-91, directed by the not-afraid-to-be-weird David Lynch" in the episode "Who Shot Mr. Burns" Part 2 (WSMB2). In this episode, Simpsons Police Chief Wiggum has a dream which parallels that of Twin Peaks FBI Agent Cooper, providing him with vital clues to the investigation.

Peaks fans could recognize scads of references in the short segment of WSMB2 – the room Wiggum sat in, the background music, the voices and shadows, and Lisa's dance are all dead-on. Lisa's clues are just as opaque as the dwarf's (except that Cooper didn't need them repeated several times), and Wiggum sports a cow-lick when he awakes, just as Cooper did when he awoke from his dream. (28 Aug. 1998)

Fans also speculate as to the writers' motivations behind allusions to popular culture. One fan, in discussing the episode in which Bart and Milhouse sneak into the R-rated film Barton Fink, wonders how this idea originated in the writing process. He asks: "I was wondering if anybody knew whether one of the Coen brothers (who made the film) worked on that particular episode, or maybe if Groening or the writers have a deep respect for the Coen's unique genius and decided to shamelessly plug their movie." (18 Aug. 1998)

The musical composer for the series, Clausen, plays a large role in evoking these allusions. In an interview with Doug Adams, he states: “when we do quotes and the actual music has been licensed and used as an identifiable hook, I think it’s very, very important that the people identify it right away. That’s why it’s extremely important to me to be able to duplicate the sound of those big orchestral scores as closely as possible.”³⁰ How does he attempt to evoke movies and other references? “I really try to put myself in the public’s place and think, ‘What can I use melodically, rhythmically, harmonically, orchestrationally to make a person sit down and watch a ten-second clip and say, “Yeah, that’s the music from Waterworld” even though it isn’t?’ ”

Fans use Clausen’s musical renditions as clues to interpret scenes. For example, Clausen claims that one of his favorite allusions is to The Great Escape, “when Maggie was trying to escape from the day-care center - the Elmer Bernstein cue.” One fan, sharing his interpretations of the same scene, notes that “the music is from that movie, and maggie bounces her ball against her playpen much like Steve McQueen does in The Great Escape when he is caught on his missions to escape and put in prison.” (27 July 1998)

Cultural allusions comprise such an important aspect of the show that some fans feel that film classics are honored by being alluded to in The Simpsons. One fan writes: “more than half of the best movies ever made have been parodied or honored by becoming part of the best animated series ever made.” (18 June 1998) Another asks:

has the following ever happened to you? You’re watching a ‘classic’ movie for the first time. A certain part comes up and you start thinking to yourself,

‘wait a minute... this looks awfully familiar. Yeah, this is from that one episode of The Simpsons. If I remember correctly, Homer picks up the gun and... Aw man! Now I know what’s going to happen next! (28 July 1998)

Considering their avid interest in the details of the aired episodes and secondary texts, perhaps it is hardly surprising that fans can only devote a portion of their time to questioning the authority of Fox. Most fans find discussing the program with others who share a similar interest in detail to be more pleasurable than organizing against or resisting Fox’s crackdown. The former provides fans with the satisfaction of knowing the show more deeply than the average viewer; the latter only underscores fans’ inability to control a text they do not own. The next chapter examines these findings in light of cultural studies literature on fans.

¹ This information is from the discussion group list of questions and answers (FAQ). For ethical purposes, the actual address of this website will not be disclosed as it reveals the exact location of the group studied. (See chapter three.)

² A dimwitted boy in Lisa Simpson's class at Springfield Elementary.

³ These abbreviations will be used in excerpts of posts to follow.

⁴ I requested details from Fox by mailing them a letter. However, Fox's lawyers responded that they are not able to discuss Fox's policies regarding the selection of websites to target. However, it seems reasonable to suggest that the company's focus on audio and video clips instead of stationary images and text seems more a practical decision than a gesture of good will.

⁵ Jane Gaines, Contested Culture: The Image, the Voice, and the Law (Chapel Hill: University of North Carolina Press, 1991), 101.

⁶ Rebecca Tushnet, "Legal Fictions: Copyright, Fan Fiction, and a New Common Law," Loyola of Los Angeles Entertainment Law Journal 17 (1997): 661.

⁷ Tushnet.

⁸ Tushnet.

⁹ See Chapter Six.

¹⁰ See Chapter Six.

¹¹ ie) when a scene or action is incongruous with what has happened before.

¹² The discussion group FAQ.

¹³ The Simpsons Archive, "FAQ's, Guides & Lists," Apr. 1999. <<http://www.snpp.com/lists.html>> (Aug 1998).

¹⁴ Henry Jenkins, Textual Poachers: Television Fans and Participatory Culture (London: Routledge, 1992).

¹⁵ The Simpsons Archive, "Simpsonic News Update," 4 Oct. 1998. <<http://www.snpp.com/news/newsarch.html#postpone>> (Nov. 1998).

¹⁶ John Fiske, Television Culture (New York: Methuen, 1987), 89-90.

¹⁷ Jamie Angell, "Interview with Matt Groening," Simpsons Illustrated, 1993. <<http://www.labyrinth.net.au/~kwyjibo/frames.html>> (June 1998).

¹⁸ Angell.

¹⁹ Angell.

²⁰ M. Mason, "'Simpsons' Creator on Poking Fun," Christian Science Monitor Online, 17 Apr. 1998. <<http://www.csmonitor.com/durable/1998/04/17/p57s1.htm>> (Sept. 1998).

²¹ Chris Galdieri, "Mania: The Fox Network's *Other* Scully," Mania Magazine Online, 14 Nov. 1997. <<http://www.mania.com/tv/features/Simpsons111497.html>> (Sept. 1998).

²² Bill Brioux, "Keeping up with The Simpsons," TV Guide, Canada, 29 Mar. to 4 Apr. 1997: n.pag.

²³ Brioux.

²⁴ alt.tv.simpsons, "LISA: List of Inquiries and Substantive Answers," Mar. 1999. <<http://www.artist-bros.org/olombard/lisa/>> (Sept. 1998).

²⁵ Doug Adams, "Interview with Alf Clausen," Film Score Monthly, March 1997: n.pag.

²⁶ Adams.

²⁷ Kevin Jackson, "My Family and other Anarchists," Daily Mail, 20 July 1997.

<<http://www.wetware.demon.co.uk/simpsons/article.1997-07-20.dailymail.html>> (Sept. 1998).

²⁸ Angell.

²⁹ The Simpsons Archive, "Episode Capsules," Mar. 1999. <<http://www.snpp.com/episodes.html>> (July 1998). Capsules are intended to provide fans with details on aired episodes. They include information on the title sequence, voice credits, movie references, freeze frame jokes, continuity problems, fan reviews, and scene summaries. They have been written over the years by Simpsons fans.

³⁰ Adams.

CHAPTER 6: AUTHORS AND RE-AUTHORS

Chapters Four and Five examined the online activity of a group of avid users of media-circulated property - Simpsons fans - focusing in part on the intersection between this activity and intellectual property law. The discussion of online protest sites and the description of the reactions to the crackdown in the mailing list underscore a contestation over the ownership and usage of Simpsons property. The protest sites highlight the discursive power of fans in articulating their own sense of injustice concerning corporate control of mass-circulated forms; the discussion group reveals a contradictory, heterogeneous mixture of support for and hostility towards Fox, and a preference for probing deeply into the text rather than questioning the actions of its owners. In both chapters, the law's palpable presence is revealed through the standards fans articulate regarding how cultural forms should be governed.

This concluding chapter describes three main findings of the case studies: (1) that fans employ strategies of appropriation and recoding, (2) that fandom has what can be considered strong conservative elements, and (3) that the proprietary rights of corporate actors curtail the possibilities of fan activity. These findings have implications for the cultural studies literature reviewed in Chapter Two in which scholars reveal a commitment to determine how groups or individuals use social phenomena. According to writers like Henry Jenkins, consumption is a creative activity through which fans remake texts so that potentially significant materials can better speak to their cultural interests.

In terms of the first set of findings, fans resignify media materials for their own uses. Analysis of Simpsons websites in Chapter Four revealed that fans incorporate media signifiers into creative and unique websites in which they recode mass-circulated property. In this process, cultural forms are used as vehicles with which to question the relationship between the corporate actor and the properties it owns. For example, fans turn popular slogans into commentary on the intersection between online fan activity and the law. Analysis of the websites and of the discussion group also revealed the numerous ways in which fans re-articulate the law by creating their own legal disclaimers. Fans write alternate standards regarding how media forms should be regulated,¹ contesting the very framework (ie, that of intellectual property) upon which entertainment corporations depend for a large portion of their income. In the process of engaging with favorite media texts on a daily basis, fans begin to feel as if they own the material. This sense of ownership is enhanced when fans create unique websites derived from a combination of media property. The process of re-authoring and the concept of fan ownership over pre-existing material generates fertile ground for controversy over ownership, authorship and appropriation.

Thus, the evidence presented in Chapter Four suggests that fans possess the ability to discursively stake out their territory: to create a cultural space in which the discourse of corporations, legality and ownership is questioned and over-turned. Even given the increasing reach of intellectual property laws, corporate owners of cultural property can not completely control the discursive capacity of consumers to adjust media

texts in unpredictable ways. As a result, many unauthorized expressions slip through the cracks of the law, especially in an age of proliferating access to the internet where fan sites can appear overnight, available through a variety of search engines.

Jane Gaines states that what the proprietors of popular signs will always come up against is the predictable and desired result of their own popularity - imitation, appropriation, rearticulation.² And yet, Gaines argues, when these popular cultural forms are used spontaneously, the owners want to take them back. Thus, property protected by intellectual property rights is characterized by a dual role as both culture and private property.³ The evidence presented in the preceding chapters can be viewed in this light: cultural material such as The Simpsons is simultaneously shared as common culture and vigilantly protected as private property. According to Coombe, this creates generative conditions for struggles over significance.⁴ It can therefore be suggested that protest activity such as that of Simpsons fans is to be expected because the inevitable result of popularity is a loss of control over reception. The data therefore point to a central paradox in public appropriation of private property, namely that corporate control over owned signifiers can only extend so far due to the inherent inter-relationship between authorized and unauthorized voices.⁵ As Coombe notes, laws of intellectual property mediate a politics of contested meaning that may be traced in the creation and appropriation of symbolic forms and their unanticipated reappropriations in the agendas of others.⁶

In this sense, the protest sites are prime examples of the subversive aspects of fandom as outlined by writers like Jenkins, who, for example, point to the ability of fans to question programming decisions made by networks and creative decisions made by producers. In this view, fans, by virtue of their in-depth knowledge of favorite media texts, constitute a critical component of the larger audience, and poach media property to make personal or political comments. For example, a Simpsons website can be seen as one expression of a larger interest in the program's creation, production and textual features. Participating in online fandom, via websites or discussion groups, allows fans to assert their cultural knowledge of popular texts, and in some cases, to mobilize this knowledge into a critique of textual detail, corporate ownership, or intellectual property.

Nonetheless, despite the various protest sites and the existence of FIST, which attempts to unite fans of all Fox programs, the online Simpsons fan culture lacks a substantial, organized grass-roots protest base. The protest efforts of individual fans are somewhat sporadic partly because of corporate pressure which results in the disappearance on online fan voices, but also because fans often accept the legal discourse and attempt to adhere to the rules.

This leads to a discussion of a second major finding of this thesis, the conservative elements within fandom. These are evidenced by two observations. One, fans reveal widespread support of Fox's attempts to legally suppress fan activity; and two, fans often prefer to immerse themselves in the details of the episodes. First, it was shown that fans in the discussion group had mixed reactions to the corporate crackdown

on fan sites. Although some fans rail against corporate/legal suppression of fan expression, many more go to great lengths to articulate why fans should accept and support legal threats in the name of property protection. Far from questioning status quo, these fans are taking steps to preserve it by trying to convince other fans to stop acting against the wishes of Fox, and articulating Fox's position in their own words. In fact, in some instances, these fans have gone to greater lengths to defend the company's actions than Fox or its lawyers have. The explanation in the cease and desist letter is all that the lawyers are willing to provide; fans have taken this explanation and added to it, further justifying Fox's actions. For example, the Baker and Hostetler letter,⁷ the only widely available articulation of Fox's position, makes no attempt to compare Fox's actions to those of Coca-Cola, or to emphasize the need to take issue with small infringers in order to prosecute larger ones. These arguments are examples of those put forth by fans. The letter also does not try to defend Fox against possible articulations of the fair use exemption, as many fans do. It is surprising that these fans would go to such lengths to defend an entity which is hostile to fan activity.

This finding suggests that, far from being a subversive and critical subculture, fans can be the most avid supporters of the status quo, taking the time to construct arguments in support of the current framework of intellectual property legislation and corporate control of signifiers. The fans who comply with corporate restrictions constitute a relatively silent majority compared to the more vocal protesters. In characterizing the critical behavior of fans who challenge Fox's rights of authorship, it is

useful to understand the discourse of those who comply. These assenting fans constitute a relatively silent majority compared to the more vocal protesters; nonetheless, their consent is an integral feature of the relations between those with and without authority. The law can be seen to have hegemonic power insofar as it functions to draw support from those whose activities it suppresses.⁸ Corporations like Fox have the support not only of the legal system, but of many of the fans whose authoring activities they wish to deny. There seems to be a widespread assumption that protection equals progress, as revealed through both increasing intellectual property protections and their widespread acceptance within society.

Fans' support of Fox arguably reveals that the law operates not only by determining conduct in specific instances, but by influencing modes of thought. As Austin Sarat and Thomas Kearns suggest, law makes its own concepts and commands seem, if not invisible, then perfectly natural and benign. In this sense, law is constitutive of culture.⁹ Further investigation could uncover the ways in which intellectual property law shapes our sense of the proper relationship between consumers and popular culture; how it contributes to the "generally shared sense that as things *are*, so *must* they be."¹⁰

Furthermore, it was shown that fan pleasure in the group emerges more from delving into textual detail than from discussing the program's ownership or questioning Fox's rights of authorship. Writing trivia games, discussing the episodes, and buying official Simpsons merchandise constitute activity which falls within the boundaries permitted by Fox; such activity is unchallenged and even encouraged by the corporation.

Knowledge of the production process shapes discussion and interpretation, revealing fans' intentional delimitation of their own discursive space in addition to their acceptance of those imposed from corporate sources. This evidence necessitates a re-evaluation of aspects of the cultural studies' literature outlined in Chapter Two. For example, Jenkins asserts that fandom provides a base for consumer activism. Although the fans who design protest sites are clearly attempting to voice concerns about their relationship to protected Simpsons property, the fans in this discussion group are more likely to accept the fact that Twentieth Century Fox Film Corporation, as the legal owner, has the right to deny fans usage of Simpsons property. Jenkins also claims that fans are unimpressed with institutional authority, and while this statement may apply to certain fans discussed in Chapter Four, it does not characterize many of the discussion group fans.

Scholars studying fans operate from the assumption that it is important to study what marginalized groups do with media forms. This line of inquiry is helpful insofar as it aims to illuminate the intersection between popular culture and the actual daily lives of individuals. It is therefore a necessary counterpoint to notions of mass media as one-way communication vehicles which affect audiences in textually determined ways. However, the study of fans could benefit from more attention to the contradictory, heterogeneous and conservative aspects of their activity.

For example, Chapter Two outlined the emphasis some cultural studies researchers place on the ability of fans to work within textual gaps: to find

inconsistencies and undeveloped potentials and create meta-textual constructs to fill the gaps, such as fictional explanations of character motivation. This is contradicted by discussion group data which reveals fans' self-constraining efforts to work only with what the text explicitly offers. These findings are therefore at odds with the assertions of writers like de Certeau and Fiske, who seek to focus on the consumption itself, rather than the link between production, ownership and consumption. Whereas de Certeau claims that the reader detaches the text from its origin, these fans aim to understand the behind-the-scenes production process. De Certeau claims that the act of consumption needs to be examined because the reader "invents in texts something different from what they 'intended'."¹¹ He claims that the meaning of the text's signifiers is not "defined by something deposited in the text, by an 'intention,' or by an activity on the part of the author."¹² Instead, the reader "creates something un-known in the space organized by [the text's] capacity for allowing an indefinite plurality of meanings."¹³ Fans are aware that there are discrepancies between their interpretations of the text and how the producers would like the text to be interpreted. To contradict Fiske, fans do not necessarily consider this discrepancy to be a desirable one, created consciously by them in their rejection of the text's dominant meanings. Fans' interpretations, through their own conscious intent, are delimited by the text itself and its process of production.

To sum up these first two findings, Chapters Four and Five revealed that some fans exercise the discursive ability to resignify and protest while others exhibit decidedly conservative tendencies in their support of legal discourse and their self-imposed

interpretive constraints when engaging with the text itself. These somewhat contradictory data suggest that scholarship needs to consider that fans do not necessarily ally themselves against attempts to stifle their communicative activity. This would involve considering the nuances of fan activity: to examine the mundane communicative activity of fans, which, like the communicative practices of any group, contain contradictions, combinations of conservative and reactionary elements, and inconsistencies. Even in the case of the fans who design protest sites, “resistance” – a popular term in cultural studies’ literature on fans – is far too unnuanced as a descriptive term to encompass the variety of fan responses, some of which include partial acceptance of the law. Scholars should look to the multiple connotations contextually created by fans, rather than characterizing activities as “resistant” when they in fact bear little weight when up against the crushing pressures of private interests and public power.¹⁴

These “pressures” constitute the third and final finding to be discussed here: the case studies testify to the pervasiveness and power of corporate property interests in mediating the relationship between fans and popular cultural materials. Chapter Four contextualized The Simpsons as one portion of the property owned by Twentieth Century Fox Film Corporation, which in turn comprises a fraction of the assets of News Corp. The chapter also underscored the ability of Fox and Paramount to exert influence over fan usage of property by issuing legal threats to fans who shut down their sites accordingly. Despite the efforts of those fans who question Fox’s authority via their protest sites, the reality is that mass-cultural forms are regulated by an ever-increasing

arsenal of intellectual property rights. Fans possess discursive power with which they articulate their relationship to cultural property via protest websites. However, as intellectual property law increasingly precludes due consideration of the public interest in favor of corporate interests, this discursive power is threatened. Intellectual property law increasingly enables corporations to delimit and regulate all meanings of their cultural property.

At the root of this conflict between appropriation and the law is the notion of the author. The data arguably point to two contrasting views of authorship: a legal one and a more democratic, consumer-based one. The legal view is, of course, the prevailing one. Filmed entertainment corporations, other intellectual property holders, the legal system, and traditional legal commentators tend not to believe that the borrowing of protected, private property by consumers is a legitimate and legal “creative” process. As noted in Chapter Four, fewer and fewer defenses are available in intellectual property infringement actions. More restrictions curtail the type of activities that might be considered fair use of copyright material in American case law.¹⁵ The filmed entertainment giant Fox claims exclusive authorship rights to the text of The Simpsons regardless of authoring activities by fans and other consumers as, for example, Bart gets re-written as black by young Americans.

However, such claims arguably depend on an antiquated version of authorship: one which stems from an Enlightenment concept of the unitary author. Coombe states that legally, the meaning of a text is produced exclusively at a mythic point of origin.¹⁶

However, she argues that in fact, “the mass-reproduced, media-circulated cultural form accrues social meaning in a multiplicity of sites.”¹⁷ Fox’s legal threats constitute an anxious denial of this possibility of multiple sites of authorship. Drawing on Barthes, Coombe distinguishes between the “work,” whose explanation is always sought in its author, and the postmodern “text,” which is fabricated from a multiplicity of activities of signification.¹⁸ According to Coombe, the legal perspective therefore denies the immanent “textuality” inherent in any cultural form. The reasons for this denial are self-evident: “entire regimes of property hinge upon the author’s unquestioned positivity.”¹⁹ Not surprisingly then, despite the rapid proliferations of intertextuality afforded by communications technologies such as the online environment where fans can engage with intellectual property, the rhetorical appeal of the author function has not declined. Instead, according to Coombe, we have ironically witnessed a steady expansion of the fields in which authorship and new forms of cultural authority are claimed. Thus, the legal perspective of authorship upheld by entities like Fox needs to be challenged in light of the actual intersection between consumers and culture, and the impossibility of the text being the same in all contexts.

What can be termed a more democratic perspective on authorship is exemplified by most of the fans discussed in Chapter Four, and some of those in the discussion group. This perspective is a legally unrecognized, almost silent one: it is put forth not by the authors but by the re-authors. In this view, authorship can emanate from multiple sources; the notion of the isolated genius has been replaced with a more democratic view

of the author-in-society. In Chapter Four, it was argued that the process of website creation constitutes transformative work of original copyrighted material. The very process of constructing a website testifies to an understanding of the act of authoring as borrowing, not unlike the creative processes involved in producing rap music and the celebrity persona, as discussed in Chapter Two. Creating a unique website derived from a combination of media forms is one example in which the signifying practices of authors are reappropriated by others, who simultaneously inscribe their own authorship of those works which the law deems to be owned by their corporate disseminators. In fact, Rebecca Tushnet perceives media creations as merely “the raw materials out of which people build their own original works.”²⁰ In current consumer society, fans and other consumers of cultural material have to face the fact that our cultural resources are increasingly owned by others. Tushnet suggests that in such an era, in which almost all possible themes seem to have been already produced, reworking may be the only creative act still available. Culture is contested and created in precisely such instances.²¹

Because of this contestation, it is necessary to revisit cultural studies literature. If we recognize, as suggested in Chapter Two, that mass-circulated cultural signifiers like Bart Simpson are attractive sites of appropriation by marginalized groups, scholars must consider the social processes at work to fix meaning and stifle dialogue.²² “The silencing of oppositional voices, prohibited when attempted by government, is positively enabled when practiced by commercially oriented actors.”²³ When institutions attempt to deny fans the usage of such material through legal arguments, continued appropriation of

official signifiers logically constitutes the most appropriate form of protest. We must consider the political interests of those who struggle to reinscribe or alter commodified texts and their meanings.²⁴

These attractive media forms are protected by intellectual property laws which deny the transformative potential of reception and fans' sense of ownership over media properties. Fan appropriation of cultural forms must therefore be examined at its inevitable intersection with the laws which govern such usage. Specifically, within cultural studies literature, analyses of fans' creative re-making of texts and their resulting sense of ownership must be tempered by the fact that media companies, with the help of intellectual property laws, insist on conferring rights of authorship upon a single source. These legal dimensions must be considered due to the encroaching growth of the law upon the signifying commons. Coombe writes that: "romantic celebrations of insurrectionary alterity, long popular in cultural studies, cannot capture the dangerous nuances of cultural appropriation in circumstances where the very resources with which people express difference are the properties of others. Acts of transgression, though multiply motivated, are also shaped by the juridical fields of power in which they intervene."²⁵

This discussion relates to Janice Radway's assessment of the "cultural studies consensus,"²⁶ discussed in Chapter Two. Radway argues that Stuart Hall initially considered both culturalism and structuralism to have contributed to the cultural studies enterprise, but that this problematic has been more or less resolved through a consensus

among cultural studies scholars who repeatedly emphasize conscious struggle and individual agency. Intellectual property law, though it does not determine an individual's relationship to cultural forms, nonetheless shapes this relationship. Cultural property owners strive to monopolize the meanings of the commodified texts that pervade our daily lives. Intellectual property laws facilitate this process by constructing a proprietary right of the owner over the "potential meaning and interpretation" of a cultural commodity.²⁷ Coombe therefore suggests that the law's recognition and protection of some activities of meaning-making under the guise of authorship and its delegitimation of other signifying practices as forms of stealing create particular maps for cultural agency.²⁸ The resulting role of intellectual property laws in mediating cultural agency therefore requires further attention.

Going back to the first paragraph of this thesis, what do we make of the girls who write and share *Barbie* stories? Mattel's intellectual property rights entitle it to take legal action against any unauthorized usages of the *Barbie* name: only Mattel itself can legitimately "author" *Barbie*. Laws of intellectual property allow property owners to create significant power differentials between themselves and individual consumers such as fans; these inequalities shape the terrain on which hegemonic struggle occurs. Nonetheless, as evidenced by the ability of some fans to create new connotations for corporate-owned signifiers, scholarship also needs to explore the "limits of law's ability to constitute, regulate, or contain the imagination, invention, creativity, and improvisation that are culture itself."²⁹ Further research could therefore focus on the

inequalities between authors and re-authors, and on the struggles over legal and discursive ownership of publicly available cultural texts that are generated in such conditions.

The Internet and its increasing population also present a challenge for scholars interested in the power relations which underlie public usage of mass-circulated cultural forms. As previously noted, marginalized groups sometimes use mass-circulated cultural forms as a means of personal identification. Chapter Four thus revealed that fans are using their websites to align and associate themselves with particular popular cultural materials through a process of bricolage. In this context, the Internet can be seen not just as a source of information, but as an atmosphere which offers new opportunities for self-presentation. The regulation of property online therefore has repercussions for the availability of resources with which individuals can construct online selves.

Scholars have a role to play in defining the issues surrounding the regulation and appropriation of cultural forms online. As mentioned, internet service providers arguably play a role in the development of the norms and rules of appropriation in cyberspace due to their seemingly unquestioning compliance with corporate threats. Cultural studies scholars and other writers already play a similar role simply by virtue of writing about cultural activity online: as with any new technology, intense debates about the effect of cyberspace on communication began to appear very early. Writers exploring the realm of online transmission and appropriation of popular culture therefore potentially have a role in shaping the discourse within which the Internet develops. After all, the extension of

current intellectual property law to cyberspace may not necessarily constitute a natural, progressive move. Furthermore, the willingness of some fans to take intellectual property rights as a given in cyberspace reveals that common understandings of the law are already shaping the boundaries within which authorized and unauthorized voices are defined. Legal and commercial discourse advocating legal structures of property protection should be challenged by other, dissenting voices from the margins as this new technology increasingly becomes a site of cultural activity. Scholarly emphasis on the interpretive and creative aspects of fandom may therefore divert attention from a critical analysis of the evolving norms of the online environment, and of the actual relationship between consumers and cultural forms. A cultural studies focus on the usage of cultural forms in the everyday lives of individuals would therefore benefit from a consideration of the multiple, overdetermined intersections of practices which collide with and shape the parameters of fan creation and interpretation, and the inevitable interlocking relationship between law and culture.

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- ¹ Rosemary Coombe, The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law (Durham and London: Duke University Press, 1998).
- ² Jane Gaines, Contested Culture: The Image, the Voice, and the Law (Chapel Hill: University of North Carolina Press, 1991).
- ³ Rosemary Coombe, "Embodied Trademarks: Mimesis and Alterity on American Commercial Frontiers," Cultural Anthropology 11, no. 2 (1996): 202-224.
- ⁴ Coombe, "Embodied Trademarks."
- ⁵ Coombe, Cultural Life.
- ⁶ Coombe, Cultural Life.
- ⁷ See Appendix A.
- ⁸ Coombe, Cultural Life.
- ⁹ Austin Sarat and Thomas Kearns, eds., Law in the Domains of Culture (Ann Arbor: University of Michigan Press, 1998): 7.
- ¹⁰ Sarat and Kearns, 7.
- ¹¹ Michel de Certeau, The Practice of Everyday Life (Berkeley, CA: University of California Press, 1984): 169.
- ¹² de Certeau, 171.
- ¹³ de Certeau, 169.
- ¹⁴ Coombe, Cultural Life, 11.
- ¹⁵ Rosemary Coombe, "Objects Of Property And Subjects Of Politics: Intellectual Property Laws And Democratic Dialogue," Texas Law Review 69, no. 7 (1991): 1867.
- ¹⁶ Coombe, Cultural Life.
- ¹⁷ Coombe, Cultural Life, 8.
- ¹⁸ Coombe, Cultural Life, 284.
- ¹⁹ Coombe, Cultural Life, 284.
- ²⁰ Rebecca Tushnet, "Legal Fictions: Copyright, Fan Fiction, and a New Common Law," Loyola of Los Angeles Entertainment Law Journal 17 (1997).
- ²¹ Coombe, Cultural Life, 23.
- ²² Coombe, Cultural Life, 46.
- ²³ Coombe, Cultural Life, 261.
- ²⁴ Coombe, "Embodied Trademarks."
- ²⁵ Coombe, Cultural Life, 10.
- ²⁶ Janice Radway, "The Hegemony of 'Specificity' and the Impasse in Audience Research," in The Audience and its Landscape, eds. James Hay, Lawrence Grossberg, and Ellen Wartella (Boulder: Westview Press, 1996), 236.
- ²⁷ Andrew Herman and John Sloop, "The Politics Of Authenticity In Postmodern Rock Culture: The Case Of Negativland And The Letter 'U' And The Numeral '2'," Critical Studies in Mass Communication 15 (1998): 7.
- ²⁸ Coombe, Cultural Life.
- ²⁹ Sarat and Kearns, 10.

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APPENDIX A: FOX LETTER

The following are examples of letters sent to fans on behalf of Twentieth Century Fox Film Corporation. These letters are posted on websites by fans in an effort to publicize Fox's actions.

1) Available at <<http://www.wavsounds.com/xfiles/FOX.html?47329547>>

Subject: Important
Date: Fri, 06 Jun 1997 16:20:41 -0700
From: ilod
To: mulder@fred.net

Dennis L. Wilson, Esq.
BAKER & HOSTETLER LLP
600 Wilshire Blvd.
Los Angeles, CA 90017-3212
(213) 624-2400

June 6, 1997
VIA ELECTRONIC MAIL
mulder@fred.net

Re: UNAUTHORIZED USE OF TWENTIETH CENTURY FOX PROPERTIES

Dear Sir or Madame:

We are writing to you on behalf of our client, Twentieth Century Fox Film Corporation ("Fox"). Through our Internet monitoring program, we recently discovered that your site (<http://www.fred.net/mulder/xwavpages>) incorporates material from "The X-Files" television series, which is owned by Fox.

Fox has dedicated tremendous time and resources to create quality entertainment programming such as "The X-Files" and greatly values the comments and suggestions of

fans who enjoy Fox's programs. However, the development and distribution of Fox's programs require a collaboration with many different entities, including guild organizations representing actors, directors, and writers, as well as local, national, and international television and cable stations. Based in part on these relationships, Fox has a legal responsibility, including many contractual obligations, to prevent the unauthorized distribution of its program material.

Therefore, while Fox tries to support its fans whenever possible, we must respectfully ask that you remove all audio files relating to "The X-Files" from your site as soon as possible. If you do not remove these properties, we may be forced to take legal action to have them removed.

In addition, we note that your site contains "The X-Files" stationary-frame images. As a show of appreciation to its fans, Fox will soon be providing a number of "The X-Files" images for download at the Fox web site. However, at this time we must inform you that the unauthorized display and distribution of such images may constitute a copyright violation. We, therefore, request you prominently display the following on every page of your site exhibiting "The X-Files" images:

1. Legal Notice

"The X-Files" TM and © (or copyright) Fox and its related companies. All rights reserved. Any reproduction, duplication, or distribution in any form is expressly prohibited.; and

2. Disclaimer

This site, its operators, and any content contained on this site relating to "The X-Files" are not authorized by Fox.

Thank you for your cooperation in this regard. Your interest in "The X-Files" is most appreciated. Fox will continue to do its best to bring you quality entertainment.

The account from which this e-mail message was sent to you does not accept incoming e-mail. If you wish to contact me, please write to the address listed at the top of this letter.

Nothing contained in this letter constitutes an express or implied waiver of any rights, remedies, or defenses of Fox.

Very truly yours,

Dennis L. Wilson

for BAKER & HOSTETLER LLP

2) Available at <<http://gwar.savvy.com/~phil/simpsons/simpsons-randomsound.html>>

May 27, 1997

VIA ELECTRONIC MAIL

Phil Schwartzphil@gwar.savvy.com

Re: UNAUTHORIZED USE OF TWENTIETH CENTURY FOX PROPERTIES

Dear Mr. Schwartz:

We are writing to you on behalf of our client, Twentieth Century Fox Film Corporation ("Fox"). Through our Internet monitoring program, we recently discovered that your site (<http://gwar.savvy.com/~phil/simpsons/>) incorporates material from "The Simpsons" television series, which is owned by Fox.

Fox has dedicated tremendous time and resources to create quality entertainment programming such as "The Simpsons" and greatly values the comments and suggestions of fans who enjoy Fox's programs. However, the development and distribution of Fox's programs require a collaboration with many different entities, including guild organizations representing actors, directors, and writers, as well as local, national, and international television and cable stations. Based in part on these relationships, Fox has a legal responsibility, including many contractual obligations, to prevent the unauthorized distribution of its program material.

Therefore, while Fox tries to support its fans whenever possible, we must respectfully ask that you remove all audio clips relating to "The Simpsons" from your site as soon as possible. If you do not remove these properties, we may be forced to take legal action to have them removed.

Thank you for your cooperation in this regard. Your interest in “The Simpsons” is most appreciated. Fox will continue to do its best to bring you quality entertainment.

The account from which this e-mail message was sent to you does not accept incoming e-mail. If you wish to contact me, please write to the address listed at the top of this letter.

Nothing contained in this letter constitutes an express or implied waiver of any rights, remedies, or defenses of Fox.

Very truly yours,

Dennis L. Wilson

for BAKER & HOSTETLER LLP

3) Available at <<http://www.unc.edu/courses/jomc050/foxlet.html>>

Twentieth Century Fox
Licensing & Merchandising
A Unit of Fox Filmed Entertainment
David G. Oakes, Counsel
Legal Affairs

VIA COURIER
October 19, 1995

JEANETTE FOSHEE
1603-13th Street
Boone, Iowa 50036

Re: "THE SIMPSONS" - Copyright Infringement

Dear Ms. Foshee,

It has come to our attention that you have caused the creation and distribution of a collection of icons which reproduce the characters, images, voices, sounds and other distinctive elements of the copyrighted television series entitled, "THE SIMPSONS". Twentieth Century Fox Film Corporation ("Fox") owns all rights under copyright and trademark in and to "THE SIMPSONS". Your creation and distribution of these icons patently and unavoidably infringes Fox's rights.

This course of conduct exposes you to substantial monetary damages and injunctive relief in favor of Fox. As you may be aware, such damages for copyright infringement can include statutory penalties of as much as \$100,000 for willful infringement, damages under laws governing trademarks, and punitive damages under laws of unfair competition.

In view of the foregoing, we hereby demand that you do the following:

- 1. Immediately cease and desist all further creation, distribution, advertising, promotion, posting or any other exploitation of the referenced icons, or any other activity which utilizes the characters, images, voices, sounds, designs or other elements of "THE SIMPSONS" in any way whatsoever;**
- 2. Immediately order all such icons, as well as all related artwork, and other materials, or any other use thereof, to be withdrawn;**
- 3. Deliver to a designated representative of our office all disks containing such icons, all related artwork, or any other materials on hand;**
- 4. Provide Fox with an itemized accounting of any and all revenues resulting from exploitation of such icons so that Fox can determine its damages;**
- 5. Provide Fox with the names and addresses of all persons to whom such infringing icons have been sold and/or distributed, or who are known to you to have received, used and/or further distributed such icons. In addition, please provide Fox with the names of all internet servers on which you know such icons have been posted.**
- 6. Confirm to the undersigned in writing, by letter received in our office not later than 5:00 p.m. on November 10, 1995, that you shall fully and promptly comply with each of the foregoing demands (at which time specific arrangements for turnover of materials can be finalized).**

If we have not received your full and voluntary compliance with each of the foregoing demands by the deadline specified, be advised that we shall, without further

notice to you, take all available legal action to compel the discontinuation of your use and exploitation of the infringing icons, to recover monetary damages to the full extent allowed by law, including attorney's fees and costs of suit, and to obtain such additional legal and/or equitable relief as the court may allow in the circumstances. We hope that your voluntary compliance with the foregoing reasonable and lawful demands will make the initiation of legal action against you unnecessary.

Finally, be advised that nothing contained in this letter is, or may be deemed or construed to constitute, a waiver or relinquishment of any of Fox's rights and remedies in the premise, all of which are hereby expressly reserved.

Very truly yours,

signed

David G. Oakes

APPENDIX B: LETTER TO MODERATORS

>Date: Sun, 20 Dec 1998 11:15:47 -0700 (MST)

>From: Elena Kim Sawada <eksawada@ucalgary.ca>

>To: moderators@[address]

>Subject: research

>

>Hi [names of moderators],

>

>My name is Kim and I have been a subscriber to [name of group] since

>approximately April '98. I really enjoy reading the messages each day.

>I am very interested in on-line fan culture of The Simpsons in general,

>including the wide variety of web pages and discussion groups. I am

>doing a Master's Thesis entitled [original title] "The Culture of On-Line Simpsons

>Fandom: Fan Resistance and Restrictions". I am writing to request your permission

>to use the mailing list as part of my research.

>

>To give you a sense of what the overall research involves, I am looking at

>the ways fan activity is guided by three things: the content of the

>episodes, fan knowledge of the production team, and the actions of Fox

>network to protect copyright interests.

>

>Much of my research therefore consists of analyzing fan websites,
>especially protest sites against networks like Fox and Paramount, looking
>at the ways fans articulate their reactions to the cease and desist letter
>campaign. This part of the project includes describing fan sites of The
>Simpsons, Star Trek and X-Files.

>

>How would [name of group] fit into this project? I would study the ways the
>group uses their knowledge of the production team (Matt Groening, the
>writers, the producers) to guide their responses to the show. I would also
>look at their reactions to the network crackdown.

>

>For ethical reasons, I would not include the name [name of group] in the
>report, and will refer to it only as an on-line discussion group. No
>names, e-mail addresses, pseudonyms, or any other identifying information
>will be used to refer to individuals.

>

>I would like your permission to go ahead and use [name of group] as part of my
>research. Please let me know if you would like more information.

>

>Hope to hear from you soon, and Happy Holidays to you both,
>Sincerely, Kim Sawada

APPENDIX C: RESPONSE FROM MODERATORS

From moderators@[address]

Date: Tue, 19 Jan 1999 19:21:59 +1300

From: moderators@[address]

To: Elena Kim Sawada <eksawada@ucalgary.ca>

Subject: Re: research (fwd)

Hi Kim, thanks for consulting us!

We would be more than happy for you to use [name of group] as part of your research. All we ask is that you consult with the list first, or if you prefer [name of moderator] and I could post your proposal on your behalf. Although this is research for your thesis, and you have made it clear no names or other personal information will be used, it still must be with the list's approval.

So if no-one objects too strongly, and we would expect any objection to be reasonable and not lightly made, (eg 'I don't wanna' or 'no' would not be considered a reasonable objection) then you may go ahead. We would give a certain period for objections - say, a week, and then you would have the 'official' green light.

Would we be able to read the finished product?

Happy holidays to you too, good luck with your research (I'm sure no-one will object - but we'll cross that bridge when we come to it...)

[name of moderator]