



Information Ethics Outside the Mainstream

Freedom of Expression and Intellectual Property in Fan Fiction of the early 1980s

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What are the ethical implications of Intellectual Property, and how does this regime influence the creative production happening in marginal communities?

Methodology: Using discourse analysis applied to textual documents, and thematic analysis of scholarly literature on fan studies, gender studies, fair use case law, information ethics, and gift economies, I examine two different ways mainstream cultural producers have responded to their fans. I seek to determine which model is more ethically sound.

Intellectual Property

Defined as a creator's ownership over elements of their work
Fosters an environment where creative output is considered in terms of its potential monetary value
Encourages and protects the already empowered creators of cultural products

- ❖ Strictly Hierarchical
- ❖ Conflates irrelevant Copyright and Trademark law with Fair Use practices
 - ❖ Creativity Controlled by Economics
 - ❖ Favors the Status Quo
 - ❖ Encourages Creative Inertia
 - ❖ Fails the Categorical Imperative

Freedom of Expression

Can be supported by the legal framework of Fair Use (fan fiction is transformative, and less competitive economically)
Compatible with the gift economy of fandom, and with the capitalist economy of the mainstream
Protects the rights of *all* people to be creative and critical, regardless of status

- ❖ Builds a Creative Ecosystem
- ❖ Human Expression's Innate Value
- ❖ Allows Space for Marginal Voices
 - ❖ Promotes Balance
- ❖ Generates the critical discourse required for social growth and cultural prosperity



Lucasfilm (*Star Wars*) motivated by:
• creative control and intellectual property •
• power and economic wellbeing •

↓ Normative, stifling language

"[W]e would like all fanzine publishers and contributors to keep in mind...the wholesome nature and broad-based appeal of the STAR WARS Saga..."

Lucasfilm can only appeal to your sense of decency...

Lucasfilm objects to material that contains: pornography, vulgarity, or explicit gore and violence; ---The kind of writing which 99.9% of you have already labeled as 'garbage.'" [Garrett & Smith]¹

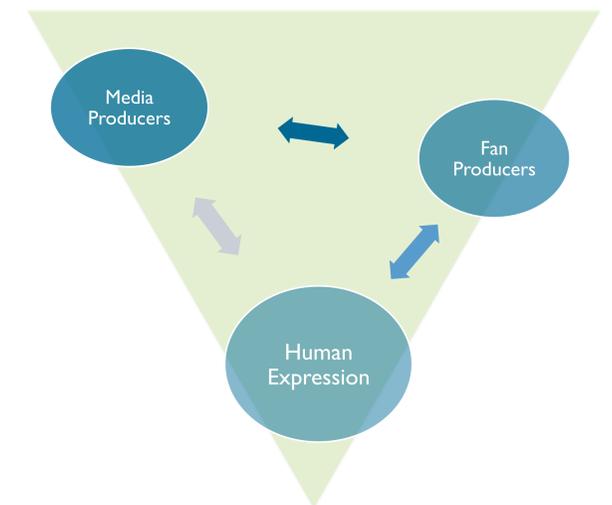
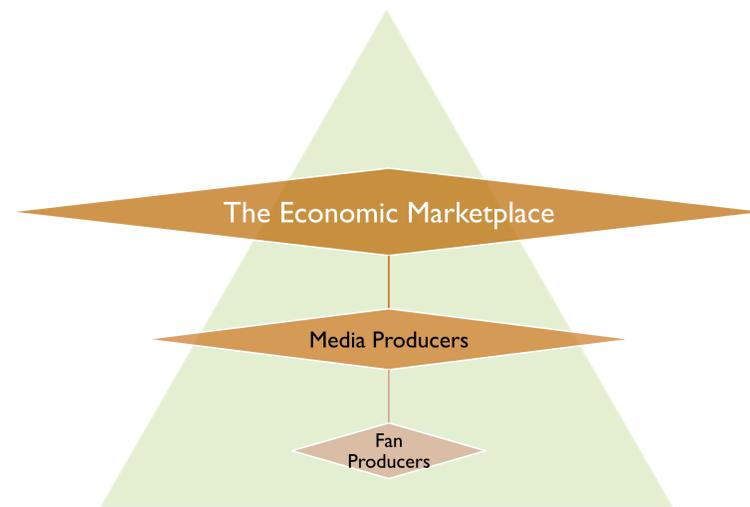
Gene Roddenberry (*Star Trek*) motivated by:
• creative success while respecting fandom ethics •
• freedom of expression and cultural progress •

Encouraging, respectful language ↓

"...there is no more profound way in which people could express what *Star Trek* has meant to them than by creating their own very personal *Star Trek* things..."

"...It is now a great source of joy for me to see their view of *Star Trek*, their new *Star Trek* stories..."

...it moves me profoundly that it has become so much a part of the inner self of so many other people." [Roddenberry]²



What can we learn?

- ❖ Intellectual Property and Freedom of Expression exert very different forces upon cultural productions
- ❖ Intellectual *Property* applies economic principles to the realm of creative expression
- ❖ Freedom of Expression does not contribute to an oppressive power dynamic, and supports the work of all creators
- ❖ Intellectual Property should not be invoked in discussions about creative products - it simply doesn't apply, and demonstrates deeply harmful effects

"Far from being a value-neutral regime, the history of intellectual property law reveals an astonishing number of incidences where the laws of copyright, trademark, and patent have been used - often with great success - to silence transgressive depictions of sexuality, sexual identity, and gender expression." [Katyal]³

Why is this relevant to Library and Information Science?

- ❖ Deals with information freedom and the ethical implications of Intellectual Property
- ❖ Explores a non-monetized mode of information production
- ❖ Highlights the intellectual opportunities provided by alternative archival collections
- ❖ Supports library engagement with marginal communities

