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Author(s): Abigail De Kosnik
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fan community altogether—a serious misreading of FanLib's audience. FanLib broke the rules of the community's engagement by misreading "community" as "commodity," and the site failed thanks to intense backlash, an expression of fannish defense of their field of value.

FanLib's example shows what happens when outside attempts are made to reconfigure the field of value in such a way as to attempt to control the community component without the community members' cooperation. One fan, in an open letter to a FanLib insider, says, "You do not understand us and our communities, nor do you respect us. . . . If you want us to participate in your endeavor then make it something in which we would want to participate. . . . You do not come to us as equals and that is your fundamental failing in this endeavor. You cannot build a new community at your site all nicely regimented and controlled because the community already exists and we will not be controlled by the likes of you."18

**Conclusion.** Fan community clearly cannot be constituted by anyone other than the fans themselves. This tenet remains central to the constitution of fan culture, just as it is continually renewed by the exchange of symbolic gifts. On a continually constituted and reconstituted field of value, women or the artworks they offer as stand-ins for themselves are not tokens to be exchanged, particularly for items that lack value within the community, like a FanLib T-shirt or attention from a producer of *The L Word*. Instead, they exchange personally charged aspects of themselves in a gift culture whose field of value specifically excludes profit, further separating their community from the larger (male-gendered) community of commerce.

18 Chronolith, May 29, 2007, comment to Jenkins, "Chris Williams Responds."

Should Fan Fiction Be Free?

by ABIGAIL DE KOSNIK

It seems strange, at the end of the first decade of the twenty-first century, that I should feel a pressing need to reiterate Virginia Woolf's argument from eighty years ago, that "a woman must have money and a room of her own if she is to write fiction."1 But the need has arisen because the authors of fan fiction, who are predominantly women, have never, as a group, sought payment for their labor. This situation deserves scrutiny, especially because fan fiction is be-

coming increasingly visible to non-initiates through major media outlets in the United States and the United Kingdom, indicating that the genre is moving away from the margins of American and British culture.²

**FanLib.** The mainstreaming of an alternative form of cultural production is nearly always synonymous with commercialization; some enterprising force realizes an opportunity for profit in a little-known but interesting subcultural practice. In fact, an attempt at commercializing fanfic already has been made by the company called FanLib, which was largely excoriated by existing fan fiction communities because, as Henry Jenkins wrote, it “didn’t emerge bottom-up from the fan culture itself. . . . It was a business, pure and simple, run by a board of directors which was entirely composed of men. This last point is especially relevant when you consider that the overwhelming percentage of people who write fan fiction are women.”³

FanLib shut down in the summer of 2008, although if rumors of FanLib’s purchase by Disney are true, it may reappear in some new form.⁴ But some recognized that FanLib will not be the last effort made to commodify fan fiction. One fan, almostnever, wrote, “I think [monetization] is coming whether we accept it or not.”⁵ In online discussions of future commercialization that took place in the wake of FanLib’s launch, there seemed to be a consensus—rare in any fan debate—among fan fiction writers and readers that parties who do not currently operate in, and therefore do not thoroughly understand, fanfic communities should not be the parties who profit. For example, almostnever argues, “I’d rather it was fan-creators getting the benefit of the $$$, not some cutthroat entrepreneur who doesn’t care about our community except as a market niche,”⁶ and another fan, icarusancalion, stated, “While I don’t mind the increasing public light being brought to bear on fanfiction, I do strongly object to people who aren’t [in] fandom making money off it.”⁷

**Sugarhill Moment.** However, fanfic writers have not yet mobilized to ensure that they earn the lion’s share of any revenues to be made from the popular genre of writing that they are developing. Fan fiction is nearing what I call the “Sugarhill moment”:

² Over the past year, fan fiction has been directly mentioned on ABC’s *Ugly Betty* (December 6, 2007), BBC Channel Four’s *The Friday Night Project* (March 28, 2008), and in the *New York Times* (Brian Stelter, “A Marketing Move the ‘Mad Men’ Would Love,” August 31, 2008). Media fan wneleh compiles a weekly list of media references (http://wneleh.livejournal.com/) to fanfic and on average reports four or five references each week, in media outlets including the *Christian Science Monitor, Business Week, Popular Mechanics,* and *New York Magazine.*

³ Henry Jenkins, “Transforming Fan Culture into User-Generated Content: The Case of FanLib,” May 22, 2007, http://www.henryjenkins.org/2007/05/transforming_fan_culture_into.html. For some of the many fan discussions that were highly critical of FanLib, see the bookmark collection of FanLib-related threads at http://del.icio.us/metafandom/fanlib. (All URLs referenced herein were accessed November 22, 2008.)


⁵ Cited by Jenkins, “Transforming Fan Culture.”


moment when an outsider takes up a subculture’s invention and commodifies it for the mainstream before insiders do. In 1979, independent record producer Sylvia Robinson heard a DJ spin two turntables and rap over the breakbeats at a Manhattan club, and she decided to form a group that could replicate and record the sonic style that, until then, had been an exclusively live mode of performance: hip-hop and rap. Robinson’s group, the Sugarhill Gang, made the single “Rapper’s Delight,” which put hip-hop on America’s cultural map, rather than any work produced by DJ Kool Herc, Grandmaster Flash, or any of the other turntablists and MCs who had invented and developed the genre. Of the Sugarhill Gang’s success, Steven Daly wrote, “Whenever the key players of hip-hop’s ‘old school’ look back on the pregnant moment when the Sugar Hill label blazed a trail for rap, there remains among them the nagging sense that it all went down the wrong way.” Fan fiction authors are in some danger now of repeating what hip-hop’s earliest DJs might call their error: waiting too long to decide to profit from their innovative art form, and allowing an interloper to package the genre in its first commercially viable format.

The Sugarhill example provides a particularly useful parallel to fan fiction, in that hip-hop, like fanfic, is a genre fundamentally based on artistic appropriation. Hip-hop’s commodification may offer an illustrative model, however. Digital sampling, the incorporation of sections of prerecorded sounds and music into new recordings, is one of the twin components of hip-hop music; rap is the other. Over the past decades of sharing their transformative works, fan fiction readers and writers have generally felt wary of commodifying a form of cultural production that is essentially derivative and perhaps subject to copyright infringement lawsuits. However, hundreds of music producers have been sued for unlicensed sampling over the past twenty-five years, and despite several court rulings against sampling without permission, hip-hop has grown into a global cultural phenomenon, a multipronged industry that makes money for all who have a stake in the production of its various artifacts, with revenue streams flowing in nearly every nation.

**Transformation and Commodification.** Digital sampling stands as the clearest, but not the only, example of an appropriation-based genre becoming profitable for its practitioners. Japanese doujinshi, or fan-created comics, are sold at conventions in Japan and in the United States as well as by Internet retailers. Lawrence Lessig estimates that more than 33,000 circles of doujinshi artists actively circulate their self-published works, which are based on manga (Japanese comics) issued by publishing companies. Lessig also claims that over 450,000 Japanese doujinshi buffs attend the twice-annual conventions dedicated to these fan texts, and that doujinshi conventions are “the largest public gathering in the country.”

In U.S. fan cultures, commercialization also occurs, although it’s interestingly gendered: both fan filmmakers and game modders have succeeded in transforming their fan works into commercial entities. Some fan filmmakers have used their productions...
as "calling cards" in Hollywood, hoping that their fan works will demonstrate their ability to do professional work. A number of Star Wars fan filmmakers (all men) have received development deals or employment with major studios on the basis of their fan work. Another remix genre, game modding, has also produced professional game designers from its ranks. Some game mods have been purchased by the companies that made the source games and met with extraordinary commercial success. Jenkins notes that among participatory fan groups, "the modding community may be unique in having amateur-produced works taken up directly by commercial companies for distribution."\(^\text{11}\) Jenkins mentions that this modder-industry cooperation goes the other way, too: start-up game companies may build products that are basically mods, then pay licensing fees to the companies that produced the source games so that they can distribute their games legally.

**Gift Cultures.** Digital appropriation artists have developed a number of monetization models: royalties, distribution agreements, reasonably priced licenses that permit remix practitioners to sell their appropriations legally, and small-scale compensation intended only to reimburse remixers for their outlay. Although fan filmmakers and game modders have experimented with these models, fan fiction writers have not conducted similar experiments in marketing their works. As Karen Hellekson notes in this issue, even when fanfic readers engage in financial transactions, they are not perceived as a form of purchasing but as a form of gifting: "Even in fannish commercial exchanges . . . gifting is the goal." Compensation for the authors, publishers, editors, or curators is not the goal.

This is so even though a large market clearly exists for fanfic-style writing. Over the last dozen years, revisions and expansions of preexisting literary texts have appeared in contemporary fiction. Anita Diamant's *The Red Tent* (1997), Sena Jeter Naslund's *Ahab's Wife* (1999), Linda Berdoll's *Mr. Darcy Takes a Wife* (1999) and *Darcy and Elizabeth* (2006), Alice Randall's *The Wind Done Gone* (2001), Isabel Allende's *Zorro* (2004), and Nancy Rawles's *My Jim* (2005) are books that all achieved critical acclaim and/or commercial success, and all retell well-known stories.

Although most of these derivative fictions were published without any legal danger, because the Bible, folklore, and nineteenth-century British and American novels are in the public domain, *The Wind Done Gone* did spark a lawsuit, filed by the heirs of *Gone with the Wind* author Margaret Mitchell against Randall's publisher, the Houghton Mifflin Company. In 2001, a federal appeals court overturned a lower court's injunction to block *The Wind Done Gone* from going to press, and the parties settled out of court for an undisclosed sum in 2002.\(^\text{12}\) Fan fiction communities could have looked at the outcome of the Alice Randall case and determined that commodifying fanfic based on copyrighted material, although likely to lead to a legal battle with copyright owners, is possible. The federal appeals court in Atlanta found that Randall's book constituted fair use of Mitchell's book because it needed to cite the earlier work in


order to parody it. And although so far parody is the lone type of commercialized transformative work that has been deemed fair use by courts (in 1994, the Supreme Court ruled that 2 Live Crew’s sampling of Roy Orbison’s “Pretty Woman” was fair use on the grounds that parody “needs to ‘conjure up’ the original in order to parody it”13), Bruce Keller and Rebecca Tushnet point out that no “bright-line rule” states that only parody, among all genres of transformation, may be monetized under the banner of fair use. Keller and Tushnet argue that the Supreme Court based its “vision of transformative fair use” on Judge Pierre Laval’s concept of “productive” use that “employ[s] the quoted matter in a different manner or for a different purpose from the original.” The Supreme Court has also placed importance on the issue of whether transformation “risks substituting for the original or licensed derivative works.”14 A strong case may be made that, by Laval’s definition, fan fiction qualifies as “productive” reworking of original material that does not threaten the marketability of its source works. If anything, fan fiction might be regarded as a form of sales promotion for its source texts.15

If a case involving fan fiction and copyright infringement ever results in a court ruling, that ruling may agree with this framing of fan fiction as productive and non-threatening (or even promotional) rather than derivative and competitive. However, to date, no court case involving either printed or online fan fiction has yielded a judge’s decision establishing whether this type of work constitutes fair use or infringement, or whether guidelines for licensing fees must be established before authors can sell appropriations of copyrighted works. Fanfic authors who think that selling appropriated art is always and absolutely against the law are mistaken. No such case law exists, and many appropriating artists make money from their work today without constantly encountering legal trouble.16

Why, then, do fic writers resist earning income from their output? Many scholars of fan studies claim that fan fiction is, and must remain, free—that is, “free of charge,” but also “free of the social controls that monetization would likely impose on it”—because it is inherently a gift culture, as Hellekson describes in this issue. In fact, even the fan organization, the Organization of Transformative Works, one of whose goals is to redefine fan works as transformative and therefore legal, states: “The mission of the OTW is first and foremost to protect the fan creators who work purely for love and share their works for free within the fannish gift economy.”17

Although I agree that what women seek in the production and consumption of fan fiction is a priceless gift, I argue that there are more aspects to the gift economy than the social engagement that Hellekson isolates. In Reading the Romance, Janice Radway

describes how, for her interview subjects, consuming romance novels was a “special gift that a woman gives to herself.” Radway thus implies that romance novel culture is a gift culture, but the gift that a woman gives and receives is that of intimacy with herself, a quiet and private time that she can take for herself alone, an individual pleasure rather than a communal one. Fanfic, like the romance novel, is a genre of cultural production that many women consume alone, and their reading—and writing—of this fiction is a technique of self-pleasuring and solo enjoyment. Therefore, writing fan fiction for personal gain—financial, psychological, or emotional—aligns with the fact that self-enrichment is already inherently an important motivation for women to produce and consume fanfic. For some women, belonging to an affinity group or discussing stories with fellow writers and readers is not the primary reason for engaging with this type of fiction. The rewards of participating in a commercial market for this genre might be just as attractive as the rewards of participating in a community’s gift culture; and the existence of commercial markets for goods does not typically eliminate parallel gift economies.

Some fan fiction writers and readers argue that because a great deal of the genre is sexually explicit and nonheteronormative, the genre is less likely to be a commercial success. “Synergy is all well and good until someone stumbles upon that Shrek/Gandalf/Harry Potter threesome BDSM [bondage-discipline/domination-submission/sadomasochism] fic and has an aneurysm,” one writer remarked in a blog post entitled “Fanfiction, Monetized.” But the romance novel industry, whose works are sexually explicit to some degree, is enormously profitable. If anything, sex sells fiction to women. That much of fanfic is smut would seem to give it a greater, not lesser, chance of becoming popular with female consumers.

If fans successfully professionalize and monetize fan fiction, the amateur culture of fic writing will not disappear. Professional and amateur versions of nearly every art and genre, from fiction to poetry, to painting to photography, to theater to filmmaking, coexist. Conventional wisdom holds that the best amateurs, after giving enough of their work away for free, prove that their output is worthy of payment. Although fans have legitimate anxieties about fan fiction being corrupted or deformed by its entry into the commercial sphere, I argue that there is far greater danger of this happening if fan fiction is not commodified by its own producers, but by parties foreign to fandom who do not understand why or for whom the genre works, and who will promote it for purposes it is unsuited for, ignoring the aspects that make it attractive and dear to its readers. FanLib was a failed attempt at co-optation, but unless fans seize their Sugarhilt moment, another external force may succeed.

A Room of One’s Own. However, an even greater danger than this is that fan fiction may not be monetized at all, in which case no one, particularly women authors, will earn the financial rewards of fanfic’s growing popularity. Only the corporate owners of the media properties that fic authors so creatively elaborate on will see economic gain from these writers’ volunteer work. Even though fan fiction is exchanged for free, the proliferation of this fiction works as advertising for mass-marketed media products, so media corporations are already making money from fanfic writers’ labor. Similarly, the owners of Web site hosting services, to whom fic authors must pay a fee in order to publish and archive their stories, and advertisers whose banners and icons appear on such sites generate revenue from fan writers’ energies.

As Alexis Lothian writes in her contribution to this issue, “Rather than fans stealing commodified culture to make works for their own purposes, capital steals their labor . . . to add to its surplus.” Suellen Regonini similarly stated in 2006, “Media conglomerates, such as New Line Cinema and Universal Studios, have started to embrace fan input, giving them ‘insider access’ to advance information, but often at the cost of fans becoming unpaid marketing reps for the studios.”21 The gap in resources between large media conglomerates and communities of female fan creators, which Julie Levin Russo highlights in her essay in this issue, may never be completely closed; but if women can formulate a model for the monetization of their artworks, the gap will be narrowed.

Although the Organization of Transformative Works, founded and run by longtime fandom insiders, operates a repository for fan fiction called “Archive of Our Own” (http://archiveofourown.org), no group that publishes or archives fan fiction has (so far) demonstrated a willingness to experiment with payment structures that could endow its contributors with what Woolf insisted are the material prerequisites of fiction writing. In the absence of such experimentation, women writing fanfic for free today risk institutionalizing a lack of compensation for all women that practice this art in the future. Woolf asked of her forebears, “What had our mothers been doing then that they had no wealth to leave us?” Will our generation answer that we have been giving our talents away as gifts, rather than insisting on the worth of our work?