

# FAN FICTION AND COPYRIGHT; MUTUALLY EXCLUSIVE, COEXIST- ABLE OR SOMETHING ELSE? Considering fan fiction in relation to the economic/utilitarian theory of copyright

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## 1 INTRODUCTION

Copyright is a recognised form of intellectual property. Its importance is not only in the national stage,<sup>1</sup> but also extends into the international arena.<sup>2</sup> One reason given for copyright's existence is the economic/utilitarian theory, where creators are encouraged to create by being granted exclusive economic rights for a certain period of time.

Fan fiction is now an established phenomenon, made more accessible and popular through the internet.<sup>3</sup> It has grown from a relatively isolated activity to that of significant size and importance, enough to attract the attention of the media<sup>4</sup> and copyright owners,<sup>5</sup> even growing to a self-sustaining point with some serious attempts at self discussion and analysis.<sup>6</sup> Its growth has largely been without specifically considering copyright law.

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<sup>1</sup> For example, *Commonwealth of Australia Constitution Act* (The Constitution) s 51 (xvii); *United States Constitution* section 8.

<sup>2</sup> For example, *Berne Convention for the Protection of Literary and Artistic Works*, Sep 9 1886, 1972 ATS No 13 (Berne Convention); *Convention Establishing the World Intellectual Property Organization*, July 14 1967, 1972 ATS No 15 (The WIPO Convention).

<sup>3</sup> Ranon, C Z, 'Honor among Thieves: Copyright Infringement in Internet Fandom' (2005-2006) 8 *Vand. J. Ent. & Tech. L.* 421, 421-422.

<sup>4</sup> Adler, M (presenter) 'Harry Potter Fan Fiction' (audio), NPR : National Public Radio (29 December 2002) <<http://www.npr.org/templates/story/story.php?storyId=895359>> (21 October 2006).

<sup>5</sup> With varying degrees of support; see for example Ranon, above n 3, 441-442; Stendell, L, 'Fanfic and Fan Fact: How Current Copyright Law Ignores The Reality Of Copyright Owner And Consumer Interest In Fan Fiction' (2005) 58 *SMU L. Rev.* 1551, 1555-1559.

<sup>6</sup> For example, see Dejay, T (host and presenter) 'Other People's Toys #1 - Fanfic 101' (audio) (14 May 2006) <[http://www.serialprizes.com/heroes/opt/opt\\_01\\_0506.mp3](http://www.serialprizes.com/heroes/opt/opt_01_0506.mp3)> (12 August 2006).

This paper considers the relationship between fan fiction and copyright, and draws conclusions about their compatibility. This is done in relation to the popularly cited economic/utilitarian theory of copyright, with discussion primarily based on Australian and United States of America<sup>7</sup> law. It is acknowledged that the relationship could have been analysed using other considerations and nations.<sup>8</sup>

## II FAN FICTION

Fan fiction has been described as ‘any kind of written creativity that is based on an identifiable segment of popular culture, such as a television show, and not produced as “professional” writing’.<sup>9</sup> The rise of the internet means other forms of non-written work<sup>10</sup> could also be considered as fan fiction. However, it still typically takes written form, and a more ‘internet friendly’ description has been put as ‘fiction written by a fan for the Internet [i.e. for anyone] about a person, fictional character, or universe of which the person is a fan’.<sup>11</sup>

It is important to understand that ‘[f]or every work of fan fiction, an underlying fandom exists’.<sup>12</sup> Fandom has been defined as ‘the world of fans and enthusiasts, especially of fans of science fiction magazines and conventions’;<sup>13</sup> it is essentially the world in which the fan fiction is based – for example, Harry Potter fan fiction would exist in the Harry Potter fandom, X-Men fan fiction in the X-Men fandom etc. The fandom that fan fiction is based springs from the original source material, whether fictional character/s, universe<sup>14</sup> or distinctive concepts.

Original source material is referred to as ‘canon’;

[It] comprises those novels, stories, films etc. that are considered to be genuine (or “official”), and those events, characters, settings, etc. that are considered to have inarguable existence within the fictional universe.<sup>15</sup>

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<sup>7</sup> Hereinafter referred to as America or American.

<sup>8</sup> For example, other theories, aims and objectives, etc.

<sup>9</sup> Tushnet, R, ‘Legal Fictions: Copyright, Fan Fiction, and a New Common Law’ (1996-1997) 17 *Loy. L.A. Ent. L.J.* 651, 655.

<sup>10</sup> For example, (short) online ‘films’.

<sup>11</sup> Ranon, above n 3, 422.

<sup>12</sup> McCardle, M, ‘Fan Fiction, Fandom, and Fanfare: What's All the Fuss’ (2003) 9 *B.U. J. Sci. & Tech. L.* 433, 435.

<sup>13</sup> *The Concise Oxford Dictionary of Current English* 9<sup>th</sup> ed FANDOM page 487 (1995) quoted in McCardle, above n 12, 435.

<sup>14</sup> With its own natural laws.

<sup>15</sup> ‘Canon (fiction)’ <[http://en.wikipedia.org/wiki/Canon\\_%28fiction%29](http://en.wikipedia.org/wiki/Canon_%28fiction%29)> (9 October 2006).

Different materials are considered canon within different fictional universes,<sup>16</sup> and different fictional universes have their own system<sup>17</sup> of classifying canonical works.<sup>18</sup> Canon is important in establishing continuity - the set timeline.<sup>19</sup>

All fan fiction utilises canon to different degrees, whether to simply use main concepts and characters in a new yet linked way,<sup>20</sup> for a story from a different point of view,<sup>21</sup> to diverge from canon at a given point,<sup>22</sup> or even presenting 'characters in an environment diametrically opposed to that [in] canon'.<sup>23, 24</sup> The possibilities for fan fiction are endless, making different types of fan fiction difficult to classify.<sup>25</sup> This is more than a mere academic point; it can lead to all fan fiction being lumped together into one (homogenous) lump with 'wilder, more controversial forms of fan fiction (being) apt to swallow the entire genre of fan fiction'.<sup>26</sup> This may affect future legislative, judicial and academic consideration of fan fiction, to the detriment of fan fiction as a whole.

### III IS FAN FICTION LEGAL?

#### *A Copyright Owners' Rights*

In Australia, copyright is governed by the *Copyright Act 1968* (Cth) [the 'Act']. 'Things' that can be afforded the protection and rights under copyright are classed as either 'works' under Part III of the Act: original literary, dramatic, musical and artistic works; or 'subject matter other than works' under Part IV of the Act, comprising of sound recordings,<sup>27</sup> cinematograph films,<sup>28</sup> television

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<sup>16</sup> Widely varying between different universes (books, films, authors statements etc).

<sup>17</sup> Or methodology.

<sup>18</sup> At one extreme is no system and reliance on general agreement (for example Dr Who); at the other are official classifications of canon (for example, the 'Holocron' in the Star Wars universe-see 'Star Wars Canon' <[http://en.wikipedia.org/wiki/Star\\_Wars\\_canon](http://en.wikipedia.org/wiki/Star_Wars_canon)> (10 October 2006) and related links for more details). Most fictional universes lie somewhere in the middle.

<sup>19</sup> Time travel aside (which can happen in canon, especially in science fiction stories).

<sup>20</sup> For example, see the All\*Star X-Men universe 'Fan Fiction : All\*Star X', Uncanny X-Men.Net (UNX) (6 October 2006) <<http://www.uncannyxmen.net/fanfic/default.asp?sec=6>> (9 October 2006).

<sup>21</sup> For example, see Almsy, N [pen name], 'Doctor Scarecrow', FanFiction.net (3 October 2006) <<http://www.fanfiction.net/s/3179168/1/>> (10 October 2006) [story from the point of view of Dr Jonathan Crane/Scarecrow set during the years before and leading up to Bruce Wayne's return to Gotham in the 2005 film *Batman Begins*].

<sup>22</sup> For example, see the 617 Universe 'Fan Fiction : 617 Universe' Uncanny X-Men.Net (UNX) (10 October 2006) <<http://www.uncannyxmen.net/fanfic/default.asp?sec=2>> (9 October).

<sup>23</sup> McCardle, above n 12, 436; this is known as an 'Alternate Universe'.

<sup>24</sup> For example, see whitedino [pen name], 'Adventure of a Lifetime' FanFiction.net (27 September 2006) <<http://www.fanfiction.net/s/2980882/1/>> (10 October 2006) [Elrond from *The Lord of the Rings* gets transported into the modern world].

<sup>25</sup> Despite an attempt to classify based on characters' relationships-see McCardle, above n 12, 436.

<sup>26</sup> McCardle, above n 12, 436.

<sup>27</sup> *Copyright Act 1968* (Cth) s 85.

<sup>28</sup> *Copyright Act 1968* (Cth) s 86.

broadcasts, sound broadcasts<sup>29</sup> and published editions of works.<sup>30</sup> To attract copyright protection and rights in Australia, Part III 'works' and Part IV 'subject matter other than works' have to fulfil certain requirements. Other jurisdictions have not dissimilar legislation which details what type of creative outputs can be afforded the protection and rights of copyright and the requirements that need to be met.<sup>31</sup>

The existence and ownership of valid copyright in a work<sup>32</sup> is rarely disputed in fan fiction.<sup>33</sup> In Australia, copyright owners have exclusive rights to do<sup>34</sup> or to authorise<sup>35</sup> certain acts. The rights available to copyright owners differ depending on the category of work or subject matter; generally, Part III 'works' have a broader range of rights than Part IV 'subject matter other than works'. Exclusive rights held by copyright holders under Part III and Part IV of the Act can be described as economic rights, and are distinguished with moral rights granted under Part IX of the act (which are typically 'personal to the individual creators of particular creators of copyright material').<sup>36</sup>

For fan fiction, some important rights copyright owners possess in Australia are:

- For a Part III literary, dramatic and musical works, the right to:
  - Reproduce in a material form;<sup>37</sup>
  - Communicate to the public;<sup>38</sup> and
  - Make an adaptation of the work,<sup>39</sup>
  
- For a Part IV film or television and sound broadcast, the right to:
  - Communicate it to the public.<sup>40</sup>

The rights granted to copyright owners in Australia are not dissimilar to the rights granted in some other jurisdictions. In America, for example, a copyright owner has exclusive rights:

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<sup>29</sup> *Copyright Act 1968* (Cth) s 87.

<sup>30</sup> *Copyright Act 1968* (Cth) s 88.

<sup>31</sup> See for example the *Copyright Act of 1976*, Pub. L. No. 94-553, 90 Stat 2598 (codified as amended in 17 USC (2000)).

<sup>32</sup> Work is used in the general sense of a 'thing', not the specific Part III sense of the *Copyright Act 1968* (Cth).

<sup>33</sup> While there may be questions as to who owns the copyright, that it has an owner is not disputed.

<sup>34</sup> *Copyright Act 1968* (Cth) s 13(1).

<sup>35</sup> *Copyright Act 1968* (Cth) ss 13(2), 36(1) and 101(1).

<sup>36</sup> Fitzgerald, Anne & Fitzgerald, Brian, *Intellectual Property in principle* (Sydney : Lawbook Co, 2004), 104.

<sup>37</sup> *Copyright Act 1968* (Cth) s 31(1)(i).

<sup>38</sup> *Copyright Act 1968* (Cth) s 31(1)(iv).

<sup>39</sup> *Copyright Act 1968* (Cth) s 31(1)(vi).

<sup>40</sup> For films, *Copyright Act 1968* (Cth) s 86(c); for television and sound broadcastings, *Copyright Act 1968* (Cth) s 87(c).

(1) to reproduce the copyrighted work in copies or phonorecords; (2) to prepare derivative works based on the copyrighted work; (3) to distribute copies or phonorecords of the copyrighted work to the public...;(4)...to perform the work publicly; [and]...(5) to display the copyrighted work publicly...<sup>41</sup>

## B Does Fan Fiction Breach Copyright?

Generally, fan fiction can be argued to infringe copyright;<sup>42</sup> without a full analysis based on examples, fan fiction could reproduce, communicate to the public and/or be an adaptation of copyright material. Similarly, in America fan fiction could infringe the right to reproduce copyrighted characters,<sup>43</sup> the right to make derivative works<sup>44</sup> and by posting on the internet, the right to distribute.<sup>45, 46</sup>

Despite copyright granting exclusive rights, some use of copyright material is permitted. This is part of the balance of encouraging and providing incentives for those who undertake innovation on one hand, and allowing use in copyright material for interested users.<sup>47</sup>

The main potential defence for fan fiction in Australia is the 'fair use' defence, especially the criticism or review ground.<sup>48</sup> One could argue that (some) fan fiction is written as a criticism to how the authors/copyright owners are treating the material (typically characters and/or storyline). This defence requires sufficient acknowledgement of the original work;<sup>49</sup> this is generally not an issue.<sup>50</sup>

Under this defence, criticism and review are words with wide scope to be interpreted liberally,<sup>51</sup> and the fair use question regarding criticism or review has been put as:

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<sup>41</sup> 17 USC § 106 (2000) as summarised in McCardle, above n 12, 448.

<sup>42</sup> There could be other issues regarding fan fiction, especially in the area of trademarks.

<sup>43</sup> 17 USC § 106(1) (2000).

<sup>44</sup> 17 USC § 106(2) (2000); noting that fan fiction is, almost by definition, a derivative work.

<sup>45</sup> 17 USC § 106(3) (2000).

<sup>46</sup> In the United States of America, there are questions about whether and to what extent separate characters can and should be copyrighted—for example, see Zecevic, J, 'Distinctly Delineated Fictional Characters That Constitute the Story Being Told: Who Are They and Do They Deserve Independent Copyright Protection' (2005-2006) 8 Vand. J. Ent. & Tech. L. 365. This issue does not appear to have materialised or been considered in Australia to any comparable extent. This paper assumes that individual characters can attract copyright and is not intended to examine the question.

<sup>47</sup> Fitzgerald & Fitzgerald, above n 36, 166.

<sup>48</sup> *Copyright Act 1968* (Cth) ss 42, 103A.

<sup>49</sup> *Copyright Act 1968* (Cth) s 41.

<sup>50</sup> For example, the acknowledgement as part of a disclaimer in Tj (penname), 'X-Factor #2: Psychotherapy' Uncanny X-Men.Net (UNX) (20 October 2006)

<<http://www.uncannymen.net/fanfic/showquestion.asp?faq=125&IdAuto=933>> (21 October 2006)

('These issues are a work of fiction based on characters, owned by Marvel Entertainment Ltd. These stories are not to used [sic] for commercial gain, and are purely for entertainment purposes only').

<sup>51</sup> *TCN Channel Nine Pty Ltd v Network Ten Ltd* (2001) 108 FCR 235.

[I]s the program incorporating the infringing material a genuine piece of criticism or review, or is it something else, such as an attempt to dress up the infringement of another's copyright in the guise of criticism, and so profit unfairly from another's work?<sup>52</sup>

While works<sup>53</sup> may have some other secondary or ultimate purpose (a matter of degree),<sup>54</sup> the work would still have to be a genuine piece of criticism and review for this defence to apply.<sup>55</sup>

The difficulty in ascertaining whether copyrighted material was genuinely used for criticism or review was highlighted in *TCN Channel Nine Pty Ltd v Network Ten Ltd*,<sup>56</sup> where the court had to consider whether the Ten Network had breached copyright by using segments taken for the Nine Network in the Ten Network's (mainly) satirical programme 'The Panel'. The judges sometimes differed in deciding whether use of a particular segment constituted criticism or review.<sup>57</sup>

However, motivations for writing fan fiction differ depending on the writer. One popular response from authors about why they write fan fiction is that they enjoy writing; '[b]asically its [sic] been stated. We all like to write'.<sup>58</sup> While possible that some fan fiction is written as criticism, the majority<sup>59</sup> are to a larger degree concerned with the enjoyment of writing, of the world portrayed and the sense of connectedness with similarly interested people.<sup>60</sup> Criticism and review would form a small, if at all present, part of fan fiction. Only by examining individual works could one conclude whether this defence may be used, a task made no easier due to no fan fiction cases having been decided in Australian courts.

Similarly, the defence of parody or satire as introduced by the *Copyright Amendment Act 2006* (Cth), now under *Copyright Act 1969* (Cth) s 41A, would probably not be available due to the intention of fan fiction writers generally not

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<sup>52</sup> *Time Warner Entertainment Co Ltd v Channel 4 Television Corp PLC* (1993) 28 IPR 459, 468 (Henry LJ), quoted with approval in *TCN Channel Nine Pty Ltd v Network Ten Ltd* (2002) 118 FCR 417, 443 (Hely J).

<sup>53</sup> Above, n 32

<sup>54</sup> *TCN Channel Nine Pty Ltd v Network Ten Ltd* (2002) 118 FCR 417.

<sup>55</sup> *TCN Channel Nine Pty Ltd v Network Ten Ltd*, above n 51, 285 (Conti J)

<sup>56</sup> Above, n 54.

<sup>57</sup> For example, compare the decision regarding the segment of the Prime Minister singing Happy Birthday to Sir Donald Bradman: *TCN Channel Nine Pty Ltd v Network Ten Ltd*, above n 54, 442-443 (Hely J) with *TCN Channel Nine Pty Ltd v Network Ten Ltd*, above n 54, 424 (Finkelstein J).

<sup>58</sup> jly2003 (username) 'Re: Fan Fiction-Thoughts and Opinions' 25 September 2006 <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006).

<sup>59</sup> If not all.

<sup>60</sup> For example, see comments in 'Uncanny X-Men Net Message Board - Fan Art/Fan Fiction - Fan Fiction-Thoughts and Opinions' (5 October 2006) <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006).

being for parody or satire.<sup>61</sup> Again, individual works would have to be considered, but one can conclude with more certainty that this defence would generally not be available.

Defences to infringement of copyright also exist in other jurisdictions. In America, the defence of fair use considers several factors:

(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.<sup>62</sup>

Criticism, for example, would not breach copyright.<sup>63</sup> There has been academic discussion of all four factors as they relate to fan fiction,<sup>64</sup> but it is beyond the scope of this paper to fully examine those positions. The exact status of fan fiction under this fair use exception again depends on the individual work, and the extent to which it is classed under the four factors. Again, the task is not made any easier due to no fan fiction cases having been decided in American courts.

While fan fiction is not merely a verbatim copy of canon works,<sup>65</sup> it is not a creative work created without substantial reference to already copyright material. Although one would have to consider individual works separately, it can be said that fan fiction generally could be considered to breach copyright, both in Australia and in America.

### **III FAN FICTION AND COPYRIGHT UNDER THE ECONOMIC/UTILITARIAN THEORY**

#### *A The Economic/Utilitarian Theory*

A significant concern of copyright are the economic rights available to copyright holders. A justification of the economic importance of copyright can be found in a theoretical underpinning of copyright to promote creativity by allowing sole economic rights for a certain period of time - the economic/utilitarian theory.<sup>66</sup>

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<sup>61</sup> Although some works clearly may be.

<sup>62</sup> 17 USC § 107 (2000).

<sup>63</sup> 17 USC § 107 (2000).

<sup>64</sup> For example, Tushnet, above n 9, 655; Stendell, L, 'Fanfic and Fan Fact: How Current Copyright Law Ignores The Reality Of Copyright Owner And Consumer Interest In Fan Fiction (2005) 58 SMU L. Rev. 1551.

<sup>65</sup> Generally clearly a breach of copyright.

<sup>66</sup> Fitzgerald & Fitzgerald, above n 36, 10.

The economic/utilitarian theory is not the only theory given for existence of intellectual property<sup>67, 68</sup> and has its critics.<sup>69</sup> However, it is arguably one of the most commonly cited reasons. The idea is to foster creativity by allowing those who are creative to 'exploit' their creative output for a limited time. As creative output does not have the automatic potential nature of exclusion that physical property possesses<sup>70</sup> ('the enjoyment of [intellectual products] by one person does not prevent enjoyment of them by other persons'),<sup>71</sup> this attempts to balance the 'problem' of needing to expend resources to produce a creative work, while that work being intrinsically capable of being copied and/or used with little or no extra cost.<sup>72</sup> This theory places economic value in the aspect of copyright.

### *B Does Fan Fiction Diminish Copyright Owners' Economic Rights?*

If fan fiction does appear to decrease the economic capabilities of copyright owners or itself makes money, this would tend to suggest that fan fiction is not cohesive with the economic/utilitarian theory of copyright.

Different jurisdictions consider the economic aspect at different points. In Australia, the consideration is made at the end, when considering damages. American law considers the economic aspect earlier in the fourth factor of the fair use defence, when considering 'the effect of the use upon the potential market for or value of the copyrighted work';<sup>73</sup> similar eventual remedies are again available.<sup>74</sup>

If copyright is breached, a monetary remedy<sup>75</sup> is typically available to the copyright holder. In Australia, this can take the form of damages or an account of profits;<sup>76</sup> additional damages may also be awarded.<sup>77</sup>

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<sup>67</sup> And copyright.

<sup>68</sup> Other theories include labour theory, personality theory and social planning theory; see for example Duhl, G M, 'Old Lyrics, Knock-Off Videos, and Copycat Comic Books: the Fourth Fair Use Factor in U.S. Copyright Law' (2004) 54 Syracuse L. Rev. 665, 697-710; van Caenegem, William, *Intellectual Property*, 2<sup>nd</sup> ed (Brisbane : Butterworths, 2002), 7-13

<sup>69</sup> Vaver, D, 'Intellectual Property Today: Of Myths and Paradoxes' in Drahos, Peter (ed), *Intellectual Property* (Aldershot : Dartmouth, 1999), 485-517.

<sup>70</sup> See for example Cohen, F, *Dialogue on Private Property*, 1954, 369 quoted in Edgeworth, B et al, *Sackville and Neave Property Law- Cases and Materials*, 7<sup>th</sup> ed (Chatswood, NSW : LexisNexis Butterworths, 2004), 3.

<sup>71</sup> Fisher, William, 'Theories of Intellectual Property' in Munzer, Stephen (ed), *New Essays In the Legal and Political Theory of Property* (Cambridge University Press, 2001), 168-173 quoted in Ricketson, Sam & Richardson, Megan, *Intellectual Property Cases, Materials and Commentary*, 3<sup>rd</sup> ed ((Chatswood, NSW : LexisNexis Butterworths, 2005), 13.

<sup>72</sup> Fitzgerald & Fitzgerald, above n 36, 10.

<sup>73</sup> 17 USC § 107(4) (2000).

<sup>74</sup> 17 USC § 502-505 (2000).

<sup>75</sup> Other remedies are potentially available- injunctions, delivery up and cancellation of documents etc.

<sup>76</sup> *Copyright Act 1968* (Cth) s 115(2).



A principle regarding damages is *restitutio in integrum* - to put the plaintiff in the original position as if something had or had not happened. In tort, as if the tort had not occurred;<sup>78</sup> in contract, as if the contract performed;<sup>79</sup> in copyright, as if copyright had not been breached. However, there is no definitive method of calculating damages when copyright has been breached. In practice, courts have tended to use two methods; the loss of profits approach and the licence fees approach.<sup>80</sup>

The loss of profits approach considers the 'value of the plaintiff's lost opportunity to profit from the exploitation of...[their] rights due to the actions of the defendant'.<sup>81</sup> This method considers the situation from the perspective of the plaintiff; this must not be confused with the profits the defendant obtained; 'what a plaintiff may have made had the defendant not invaded his rights...[is not] the same thing as what the defendant made by doing so'.<sup>82</sup> The question then becomes: how much lost profit does fan fiction cause? This raises the further question: does fan fiction cause profits to be lost?

It is arguable that fan fiction does not actually cost any profit to be lost. Fan fiction writers themselves do not appear to purchase any less copyright material merely because they are involved in fan fiction. If anything, writers of fan fiction seem to purchase more works; '[I]ike Tis Grief [another writer] said, I often buy more for research purposes!'<sup>83</sup> It is also highly unlikely that potential readers of fiction would prefer fan fiction over canon to such an extent that they would actively stop buying canon.<sup>84</sup> Fan fiction is not an accepted substitute to canon in the same way that a pirated DVD is an accepted substitute to a legal DVD. Fan fiction involves significant change from the original work. To this end, it is arguable and unlikely that fan fiction does not actually cause any profit to be lost.

There are also problems in establishing how much profit was lost. In *Autodesk Australia Pty Ltd v Cheung*,<sup>85</sup> lost profit was easier to establish due to the offending articles being perfect substitutes to the real product. The amount lost was the number of real products that were not bought. In contrast, fan fiction is not a perfect substitute to the actual product; it involves reworking and transformation by authors. Given no perfect substitutable product, other means of calculating lost profit may well cost more than they gain (with no guarantee of

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<sup>77</sup> *Copyright Act 1968* (Cth) s 115(4).

<sup>78</sup> *Butler v Egg and Egg Pulp Marketing Board* (1966) 114 CLR 185, 191 (Taylor, Owen JJ).

<sup>79</sup> *Ibid.*

<sup>80</sup> Fitzgerald & Fitzgerald, above n 36, 35.

<sup>81</sup> van Caenegem, William, *Intellectual Property*, 2<sup>nd</sup> ed (Brisbane : Butterworths, 2002), 305.

<sup>82</sup> *Colbeam Palmer Ltd v Stock Affiliates Pty Ltd* (1968) 122 CLR 25, 32 (Windeyer J).

<sup>83</sup> NocturnalHex (username) 'Re: Fan Fiction-Thoughts and Opinions' 25 September 2006 <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006).

<sup>84</sup> And other authorised derivatives.

<sup>85</sup> *Autodesk Australia Pty Ltd v Cheung* (1990) 17 IPR 69.

achieving a result, accuracy or the court's acceptance). Additionally, fan fiction is not typically sold but freely available, making exact numbers difficult (if not impossible) to calculate. The task of calculating lost profit for fan fiction may well be near impossible.<sup>86</sup>

Another method for calculating damages is the licensing approach. This uses the lost licensing fees that the copyright owner was not able to charge. This method is at best difficult to apply to fan fiction as, again, fan fiction is not an acceptable substitute to canon. Additionally, some original works do not lend themselves easily<sup>87</sup> to calculation of licences (eg books) in the same way that things like computer programmes<sup>88</sup> do. In this respect, the licensing approach for fan fiction is neither easy nor particularly applicable.

Another monetary remedy is an account of profits. This aim is the 'restitution of gains made by the defendant from the infringing exploitation of the plaintiff's rights.'<sup>89</sup> This remedy is also problematic in relation to fan fiction. Typically, fan fiction writers do not make any money from their effort. This is especially true of fan fiction available on the internet;<sup>90</sup> it is arguable that fan fiction is characterised as being freely available to all who wanted to read. Even pre-internet fan fiction that existed predominantly in fanzines<sup>91</sup> did not 'make' money; compilers tended to charge only to cover printing and shipping costs (if at all).<sup>92</sup> Even if fanzines were/are<sup>93</sup> found to make a profit, the amount after deducting various allowables<sup>94</sup> would typically be of such small value<sup>95</sup> as to render a claim for account of profits in practice economically impractical. A claim for an account of profits in relation to fan fiction would generally not entitle the copyright owner to claim much (if anything).

A breach of copyright may also entitle a copyright owner to be awarded additional damages.<sup>96</sup> This award need not have anything to do with any economic loss suffered by the plaintiff or economic gain by the defendant, although any benefit accrued to the defendant may be considered.<sup>97</sup> Cases have

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<sup>86</sup> If even possible in the first place.

<sup>87</sup> Or even at all.

<sup>88</sup> Which typically use the licensing approach for damages.

<sup>89</sup> van Caenegem, above n 81, 312.

<sup>90</sup> See for example 'FanFiction.Net' (14 October 2006) <[www.fanfiction.net](http://www.fanfiction.net)> (15 October 2006); 'Fan Fiction : All' Uncanny X-Men.Net (UNX) (13 October 2006) <<http://www.uncannyxmen.net/fanfic/>> (14 October 2006).

<sup>91</sup> Fan produced magazines.

<sup>92</sup> 'Fanzine' <<http://en.wikipedia.org/wiki/Fanzines>> (15 October 2006); see also Warner, H (Jr.) 'A History of Fanzines' in Sanders, Joe (ed), *Science Fiction Fandom* (Westport, Connecticut : Greenwood Press, 1994), 175.

<sup>93</sup> Limited numbers of printed fanzines still exist.

<sup>94</sup> For example, overheads as permitted under *Dart Industries Inc v Décor Corp Pty Ltd* (1993) 179 CLR 101.

<sup>95</sup> If at all leaving any residual.

<sup>96</sup> *Copyright Act 1968* (Cth) s 115(4).

<sup>97</sup> *Copyright Act 1968* (Cth) s 115(4)(iii).

tended to focus on the other factors available to be considered,<sup>98</sup> although situations where calculating loss in monetary terms have been considered.<sup>99</sup> It is difficult to make out what type of benefit fan fiction could have been obtained that would render additional damages. Previous cases have dealt with the offender being some type of commercial operation where additional benefit would have been of business use. In contrast, fan fiction is self-declared non-commercial; it is difficult to see this section<sup>100</sup> being applied.<sup>101</sup>

Economic consideration in Australian monetary remedies is not dissimilar to the fourth consideration of fair use under American law, which takes into account 'the effect of the use upon the potential market for or value of the copyrighted work'.<sup>102</sup> This fourth factor is not considered in isolation; '[a]ll [factors] are to be explored and the results weighed together, in light of the purpose of copyright'.<sup>103</sup>

In America, 'no presumption or inference of market harm...is applicable to a case involving something more than mere duplication for commercial purposes'.<sup>104</sup> The market is more likely not to have been harmed if the secondary work<sup>105</sup> cannot or tends not to serve as a substitute for the original, weighing fair use in favour of the infringer.<sup>106</sup> It must be noted that the purpose of American copyright is not 'to 'protect the reputation' of a work or guard it from 'taint' in any sense except an economic one';<sup>107</sup> this acknowledgement and the 'weakening' of the protection for secondary (transformative) works more readily allows for things such as critical review or parody.<sup>108</sup>

When considering the fourth factor of fair use, it is difficult to see how fan fiction would impact on the demand for canon. Similar arguments exist as when considering loss of profits under Australian damages. As has been noted, '[f]an fiction acts as a complement to, rather than a substitute for, the original work';<sup>109</sup> a simple example is to observe and compare that comments regarding canon are much more than comments regarding fan fiction on a popular X-Men discussion board.<sup>110</sup>

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<sup>98</sup> Those not directly applicable to the economic/utilitarian theory.

<sup>99</sup> For example, *LED Builders Pty Ltd v Eagle Homes Pty Ltd* (1999) 44 IPR 24, 81 (Lindgren J).

<sup>100</sup> *Copyright Act 1968* (Cth) s 115(4)(iii).

<sup>101</sup> The other grounds under *Copyright Act 1968* (Cth) s 115(4) are not specifically considered as they are not proximate enough to the economic/utilitarian theory.

<sup>102</sup> 17 USC § 107(4) (2000).

<sup>103</sup> *Campbell v Acuff-Rose Music Inc.*, 510 US 569, 578 (1994).

<sup>104</sup> *Id.*, 591.

<sup>105</sup> Derivative work in America.

<sup>106</sup> *Campbell v Acuff-Rose Music Inc.*, above n 103, 591.

<sup>107</sup> *Suntrust Bank v Houghton Mifflin Co.*, 268 F 3d 1257, 1280 (11<sup>th</sup> Cir, 2001).

<sup>108</sup> Things which would probably fall under the *United States Constitution* amend I [free speech amendment].

<sup>109</sup> Ranon, above n 3, 450.

<sup>110</sup> Uncanny X-Men Net Message Board (15 October 2006) <<http://pub4.ezboard.com/bunx>> (13 October 2006).

If fan fiction generally<sup>111</sup> does not decrease the amount of legitimate works purchased, is not readily or at all applicable to the licence approach, does not make money and does not gain any commercial benefit, the need to protect copyright owners' economic rights from fan fiction appears moot. One could argue that fan fictions' breaches of copyright have no detrimental economic effect on copyright owners.

Thus, fan fiction does not appear to be inconsistent with the economic/utilitarian theory of copyright; fan fiction could be seen as coexist-able with copyright. Expanding the economic/utilitarian theory, copyright should protect against acts that actually diminish the economic gain of copyright owners. The reverse is that while not necessarily authorising activities that do not decrease or even increase economic gain, it need not prohibit it. Fan fiction would appear to not have a negative impact on copyright material. It is thus possible to conclude that when considering the economic rights and objectives of copyright, fan fiction and copyright can indeed coexist.

### *C Fan Fiction as Free Advertising/Publicity*

It could also be argued that fan fiction acts as free marketing for those copyright works upon which it is based.

It is well recognised that copyright places two diametrically opposing concepts together; the granting of exclusive rights on one hand, and the desire through this to promote further creativity and creative works for the good of the general public;<sup>112</sup> a similar argument can be made on pure economic grounds that granting exclusive monopoly rights is a necessary evil for 'attracting financial investment needed to promote the creation and distribution of the creative work'.<sup>113</sup> Once a work has gained copyright protection, the copyright owner is then able to exercise their rights as granted under statute;<sup>114</sup> the law does not so much care about the success of economic exploitation as allowing the opportunity for the copyright owner/s solely to economically benefit.

If one of the aims of copyright is to encourage creative activity through granting exclusive economic rights for a period of time, it would then appear that those activities which would tend to increase the economic benefit that copyright owners can gain would also be positive and at worst tolerated, at best encouraged. Advertising and publicity, aspects of marketing, appear to be

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<sup>111</sup> Naturally, individual works must be considered separately.

<sup>112</sup> Fitzgerald & Fitzgerald, above n 36, 16.

<sup>113</sup> Nadel, M S, 'How Current Copyright Law Discourages Creative Output : The Overlooked Impact of Marketing' (2004) 19 Berkeley Tech. L.J. 785, 787.

<sup>114</sup> For example, in Australia through the *Copyright Act 1968* (Cth); in America through *Copyright Act of 1976*, 17 USC (2000).

something that would tend to increase economic benefits that copyright owners hold.

Marketing has been defined as 'a system of business activities aimed at achieving organisational goals by developing, pricing, distribution and promoting products, services and ideas that will satisfy customer's wants'.<sup>115</sup> Marketing facilitates in selling products or services to consumers; it is linked to advertising and publicity, and to generating interest in a product or service into (generally) increasing sales and generating revenue.

Advertising and publicity aims to generate interest and sales in the original copyright materials-books, films, comics etc. Advertising and publicity has tended to be the responsibility of copyright owners, with organisations having their own publicity departments,<sup>116</sup> and/or through using advertising agencies. While the law has typically left publicity to copyright owners, copyright owners have recognised that fans play a role in maintaining interest in copyright works. For example, Marvel Entertainment Inc has two main areas on its website; one dealing with comics and the characters more for fans,<sup>117</sup> the other more business related dealing with 'corporate information and investor relations'.<sup>118</sup>

By recognising that 'promotional costs [for copyright works] often far outweigh the other costs associated with a creation',<sup>119,120</sup> fan activities including fan fiction can be argued to assist copyright owners. If something, such as an author,<sup>121</sup> creator<sup>122</sup> or title,<sup>123</sup> can achieve an independent commercial value separate from the works produced, the name can be enough to sell something; it can become something akin to a 'brand'. Whether fan fiction is a reaction to or first caused the independent value (which can reach cult status) is secondary to the recognition that fan fiction and their communities 'are certainly a symptom of popularity, if not the sole reason for that popularity'.<sup>124</sup>

Fan fiction can also be seen to 'fill the void' and maintain interest between the release/s of new copyright works. Within the entertainment industry from which fan fiction tends to spring, there is often a significant amount of time between copyright works being made available. For example, the sixth Harry Potter

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<sup>115</sup> Rix, Peter, *Essential Marketing Skills* (Roseville, NSW : McGraw-Hill, 2003), 6.

<sup>116</sup> For example, see evidence of a publicity depart at book publisher Allen and Unwin 'Media Centre' Allen and Unwin <<http://222.allenandunwin.com/media/latestnews.asp>> (15 October 2006); for comic and related works company Marvel 'Careers' Marvel Entertainment Inc <[http://www.marvel.com/company/index.htm?sub=careers\\_current.htm](http://www.marvel.com/company/index.htm?sub=careers_current.htm)> (15 October 2006).

<sup>117</sup> Marvel.com <<http://www.marvel.com>> (15 October 2006).

<sup>118</sup> About Marvel <<http://www.marvel.com/company/index.htm>> (15 October 2006).

<sup>119</sup> Nadel, above n 113, 790.

<sup>120</sup> Especially for things such as films or major novels.

<sup>121</sup> Such as Dan Brown.

<sup>122</sup> Such as entertainment creator Joss Whedon or commercially successful producer Jerry Bruckheimer.

<sup>123</sup> Such as X-Men or Batman.

<sup>124</sup> Ranon, above n 3, 444.

novel<sup>125</sup> was published in 2005; fans awaited the last book in the series,<sup>126</sup> which was published in 2007 and released on the 21<sup>st</sup> July 2007, with anticipation.<sup>127</sup> Even shorter monthly time frames between works can stimulate fan fiction.<sup>128</sup> Fan fiction can be said to '[keep] the canon work fresh and alive in fans' mind';<sup>129</sup> when new works are published and released, it is the fans who guarantee sales and who most ardently critique the work. It is the fans who speculate about current storylines, create theories, and argue about loyalties of characters.<sup>130</sup> Fan fiction can be seen to be a manifestation fans' devotion; while not all fans write fan fiction, fan fiction writers' ideas draw from and respect canon; 'I try not to play with Classic storylines. They are part of our history, yes, but they don't need to be used TODAY [sic]' (responding to the question of how much original material [i.e. canon] is used).<sup>131</sup> Given that fan fiction writers are first fans of the canon material, their writing forms part of a connectedness that both ties them over until the next published work and maintains interest in the work. This is prima facie a form of advertising, free advertising.<sup>132</sup>

If fostering creativity is through granting exclusive economic rights in created works and economic consumption the result, activities which serve to encourage this should be at best encouraged and at worst tolerated. That fan fiction is understood as advertising/publicity for canon works means that it is not inconsistent with the economic/utilitarian theory of copyright.

## IV CONCLUSION

The economic/utilitarian theory is a generally accepted theory for the existence of copyright. It places importance on the economic rights of a copyright owner in attempting to foster more creative output. While fan fiction arguably breaches copyright, its economic impact does not hurt, and arguably aids, copyright owners. It is thus possible to say that fan fiction and copyright may, at least on one level, coexist.

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<sup>125</sup> Rowling, J.K., *Harry Potter and the Half Blood-Prince* (London : Bloomsbury, 2005).

<sup>126</sup> Rowling, J.K., *Harry Potter and the Deathly Hallows* (London : Bloomsbury, 2007).

<sup>127</sup> See for example MuggleNet (15 October 2006) <<http://www.mugglenet.com>> (16 October 2006).

<sup>128</sup> 'Fan Fiction : All' Uncanny X-Men.Net (UNX) (13 October 2006)

<<http://www.uncannyxmen.net/fanfic/>> (14 October 2006) compared to monthly publishing 'Advanced Solicitations' Uncanny X-Men.Net (UNX) (13 October 2006)

<<http://www.uncannyxmen.net/db/current/default1.asp>> (16 October 2006) [indicating publishing schedules].

<sup>129</sup> Ranon, above n 3, 451.

<sup>130</sup> This is most evident in the arguments over Harry Potter-see editorials in 'Editorials' MuggleNet (15 October 2006) <<http://www.mugglenet.com/editorials.index.shtml>> (16 October 2005).

<sup>131</sup> Tis Grief (username) 'Re: Fan Fiction-Thoughts and Opinions' 25 September 2006 <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006).

<sup>132</sup> There are arguments about the nature, reputation and image that initial self-publicity allows/protects especially in regards to moral rights, but this does not fit within the economic/utilitarian theory and must be left for another day (and another paper).

## Bibliography

### Constitutions

*Commonwealth of Australia Constitution Act* (The Constitution)  
*United States Constitution*

### Legislation

*Copyright Act 1968* (Cth)  
*Copyright Act of 1976*, Pub. L. No. 94-553, 90 Stat 2598 (codified as amended in 17 USC (2000))  
*Copyright Amendment Act 2006* (Cth)

### Cases

*Autodesk Australia Pty Ltd v Cheung* (1990) 17 IPR 69  
*Butler v Egg and Egg Pulp Marketing Board* (1966) 114 CLR 185  
*Colbeam Palmer Ltd v Stock Affiliates Pty Ltd* (1968) 122 CLR 25  
*Dart Industries Inc v Décor Corp Pty Ltd* (1993) 179 CLR 101  
*LED Builders Pty Ltd v Eagle Homes Pty Ltd* (1999) 44 IPR 24  
*Campbell v Acuff-Rose Music Inc.*, 510 US 569, 578 (1994)  
*Suntrust Bank v Houghton Mifflin Co.*, 268 F 3d 1257, 1280 (11<sup>th</sup> Cir, 2001)  
*TCN Channel Nine Pty Ltd v Network Ten Pty Ltd* (2001) 108 FCR 235  
*TCN Channel Nine Pty Ltd v Network Ten Pty Ltd* (2002) 118 FCR 417  
*Time Warner Entertainment Co Ltd v Channel 4 Television Corp PLC* (1993) 28 IPR 459

### Treaties

*Berne Convention for the Protection of Literary and Artistic Works*, Sep 9 1886, 1972 ATS No 13 (Berne Convention)  
*Convention Establishing the World Intellectual Property Organization*, July 14 1967, 1972 ATS No 15 (The WIPO Convention)

### Books and parts of books

Cohen, F, *Dialogue on Private Property*, 1954, 369 quoted in Edgeworth, B et al, *Sackville and Neave Property Law- Cases and Materials*, 7<sup>th</sup> ed (Chatswood, NSW : LexisNexis Butterworths, 2004), 3  
Drahos, Peter (ed), *Intellectual Property* (Aldershot : Dartmouth, 1999)  
Edgeworth, B et al, *Sackville and Neave Property Law- Cases and Materials*, 7<sup>th</sup> ed (Chatswood, NSW : LexisNexis Butterworths, 2004)  
Fitzgerald, Anne & Fitzgerald, Brian, *Intellectual Property in principle* (Sydney : Lawbook Co, 2004)  
Fisher, William, 'Theories of Intellectual Property' in Munzer, Stephen (ed), *New Essays In the Legal and Political Theory of Property* (Cambridge University Press, 2001), 168-173 quoted in Ricketson, Sam & Richardson, Megan,

*Intellectual Property Cases, Materials and Commentary*, 3<sup>rd</sup> ed ((Chatswood, NSW : LexisNexis Butterworths, 2005), 13.

Munzer, Stephen (ed), *New Essays In the Legal and Political Theory of Property* (Cambridge University Press, 2001)

Ricketson, Sam & Richardson, Megan, *Intellectual Property Cases, Materials and Commentary*, 3<sup>rd</sup> ed ((Chatswood, NSW : LexisNexis Butterworths, 2005)

Rix, Peter, *Essential Marketing Skills* (Roseville, NSW : McGraw-Hill, 2003)

Rowling, J.K., *Harry Potter and the Deathly Hallows* (London : Bloomsbury, 2007)

Rowling, J.K., *Harry Potter and the Half Blood-Prince* (London : Bloomsbury, 2005)

Sanders, Joe (ed), *Science Fiction Fandom* (Westport, Connecticut : Greenwood Press, 1994)

van Caenegem, William, *Intellectual Property*, 2<sup>nd</sup> ed (Brisbane : Butterworths, 2002)

Vaver, D, 'Intellectual Property Today: Of Myths and Paradoxes' in Drahos, Peter (ed), *Intellectual Property* (Aldershot : Dartmouth, 1999), 485-517

Warner, H (Jr.) 'A History of Fanzines' in Sanders, Joe (ed), *Science Fiction Fandom* (Westport, Connecticut : Greenwood Press, 1994)

### **Journal Articles**

Duhl, G M, 'Old Lyrics, Knock-Off Videos, and Copycat Comic Books: the Fourth Fair Use Factor in U.S. Copyright Law' (2004) 54 Syracuse L. Rev. 665

McCardle, M, 'Fan Fiction, Fandom, and Fanfare: What's All the Fuss' (2003) 9 B.U. J. Sci. & Tech. L. 433

Nadel, M S, 'How Current Copyright Law Discourages Creative Output : The Overlooked Impact of Marketing' (2004) 19 Berkeley Tech. L.J. 785

Ranon, C Z, 'Honor among Thieves: Copyright Infringement in Internet Fandom' (2005-2006) 8 *Vand. J. Ent. & Tech. L.* 421

Stendell, L, 'Fanfic and Fan Fact: How Current Copyright Law Ignores The Reality Of Copyright Owner And Consumer Interest In Fan Fiction' (2005) 58 SMU L. Rev. 1551

*The Concise Oxford Dictionary of Current English* 9<sup>th</sup> ed FANDOM page 487 (1995) quoted in McCardle, M, 'Fan Fiction, Fandom, and Fanfare: What's All the Fuss' (2003) 9 B.U. J. Sci. & Tech. L. 433, 435

Tushnet, R, 'Legal Fictions: Copyright, Fan Fiction, and a New Common Law' (1996-1997) 17 *Loy. L.A. Ent. L.J.* 651

Zecevic, J, 'Distinctly Delineated Fictional Characters That Constitute the Story Being Told: Who Are They and Do They Deserve Independent Copyright Protection' (2005-2006) 8 *Vand. J. Ent. & Tech. L.* 365



### Other (miscellaneous)

About Marvel <<http://www.marvel.com/company/index.htm>> (15 October 2006)

Adler, M (presenter) 'Harry Potter Fan Fiction' (audio), NPR : National Public Radio (29 December 2002) <<http://www.npr.org/templates/story/story.php?storyId=895359>> (21 October 2006)

'Advanced Solicitations' Uncanny X-Men.Net (UNX) (13 October 2006) <<http://www.uncannyxmen.net/db/current/default1.asp>> (16 October 2006)

Allen and Unwin 'Media Centre' Allen and Unwin <<http://222.allenandunwin.com/media/latestnews.asp>> (15 October 2006)

Almasy, N [pen name], 'Doctor Scarecrow', FanFiction.net (3 October 2006) <<http://www.fanfiction.net/s/3179168/1/>> (10 October 2006)

'Careers' Marvel Entertainment Inc <[http://www.marvel.com/company/index.htm?sub=careers\\_current.htm](http://www.marvel.com/company/index.htm?sub=careers_current.htm)> (15 October 2006)

'Canon (fiction)' <[http://en.wikipedia.org/wiki/Canon\\_%28fiction%29](http://en.wikipedia.org/wiki/Canon_%28fiction%29)> (9 October 2006)

Dejay, T (host and presenter) 'Other People's Toys #1 - Fanfic 101' (audio) (14 May 2006) <[http://www.serialprizes.com/heroes/opt/opt\\_01\\_0506.mp3](http://www.serialprizes.com/heroes/opt/opt_01_0506.mp3)> (12 August 2006)

'Editorials' MuggleNet (15 October 2006) <<http://www.mugglenet.com/editorials.index.shtml>> (16 October 2005)

'Fanzine' <<http://en.wikipedia.org/wiki/Fanzines>> (15 October 2006)

'Fan Fiction : All' Uncanny X-Men.Net (UNX) (13 October 2006) <<http://www.uncannyxmen.net/fanfic/>> (14 October 2006)

'FanFiction.Net' (14 October 2006) <[www.fanfiction.net](http://www.fanfiction.net)> (15 October 2006)

'Fan Fiction : All\*Star X', Uncanny X-Men.Net (UNX) (6 October 2006) <<http://www.uncannyxmen.net/fanfic/default.asp?sec=6>> (9 October 2006)

'Fan Fiction : 617 Universe' Uncanny X-Men.Net (UNX) (10 October 2006) <<http://www.uncannyxmen.net/fanfic/default.asp?sec=2>> (9 October)

jly2003 (username) 'Re: Fan Fiction-Thoughts and Opinions' 25 September 2006 <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006)

Marvel.com <<http://www.marvel.com>> (15 October 2006)

MuggleNet (15 October 2006) <<http://www.mugglenet.com>> (16 October 2005)

NocturnalHex (username) 'Re: Fan Fiction-Thoughts and Opinions' 25 September 2006 <<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006)

'Star Wars Canon' <[http://en.wikipedia.org/wiki/Star\\_Wars\\_canon](http://en.wikipedia.org/wiki/Star_Wars_canon)> (10 October 2006)

Tis Grief (username) 'Re: Fan Fiction-Thoughts and Opinions' 25  
September 2006  
<<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006)

Tj (penname), 'X-Factor #2: Psychotherapy' Uncanny X-Men.Net (UNX)  
(20 October 2006)  
<<http://www.uncannyxmen.net/fanfic/showquestion.asp?faq=125&ldAuto=933>>  
(21 October 2006)

'Uncanny X-Men Net Message Board - Fan Art/Fan Fiction - Fan Fiction-  
Thoughts and Opinions' (5 October 2006)  
<<http://p089.ezboard.com/fuxnfrm38.showMessageRange?topicID=784.topic&start=1&stop=20>> (13 October 2006)

Uncanny X-Men Net Message Board (15 October 2006)  
<<http://pub4.ezboard.com/bunx>> (13 October 2006)

whitedino [pen name], 'Adventure of a Lifetime' FanFiction.net (27  
September 2006) <<http://www.fanfiction.net/s/2980882/1/>> (10 October 2006)