

Abstract

Creating a symbiotic relationship between fan fiction creators and copyright-holding companies

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This paper aims at finding a legal solution to help create the symbiotic relationship between fan fiction authors and copyright holders. First, it reviews the literature relevant to the methods of legally protecting fan fiction authors from copyright infringement. The review shows that the current methods are based on the recognition that fan fiction authors infringe on copyright. The arguments are that fan authors in a weak position deserve to be protected due to the positive function of fan fiction with fair use doctrine and/or freedom of expression. Over time, the diffusion of open innovation enabled the rapid increase in fan-based activities, which had a considerable economic impact on entertainment industries, though. Copyright holders started to be more sensitive to the situation and wanted to control the situation by strictly regulating fan-based activities. From a legal perspective, it is time to reconsider the relationship between fan authors and copyright holders and to find the constructive way to be co-existent.

This paper puts forward two legal solutions for the issue. The first option is to bestow the moral right of fan fiction on fan authors and to assign the property right(copyright) to copyright holders. The practical use can be differentiated to the extent that copyright holders help create fan fiction. The second option is to regard fan fiction as joint works, which is more

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useful to fan authors in that the economic benefits can be given to fan authors at least to some extent.

Keywords

Fan Fiction, Copyright, Fair Use, Moral Rights, Joint Work