

# Fanworks and Copyright

## Abstract

Fan works are works of authorship created by fans of a preexistent work from which they adopt characters, plots and worlds, and are distributed especially via the Internet. However, by doing so, the fan-author may infringe upon the copyright of the author of the preexistent work. The thesis *Fanworks and Copyright* introduces fanworks from a copyright perspective and starts a discussion whether current copyright statues are still appropriate in the era of massive growth of the Internet and online creative fan communities.

Although it is not possible to state in general that fanworks infringe upon copyright, as there are multiple factors to take into account (what elements the author-fan adopts from the preexistent work, whether the author of the preexistent work has given consent for such use, whether the term of protection of the preexistent work has expired and whether there is a statutory exception), it can be stated that a large number of fanworks use copyrighted elements from preexistent works without the authors' consent, and since there is no exception in the Czech (and European) legislation that can be applied to fanworks, copyright is often being infringed upon.

The complexity of the legislation and the legal uncertainty associated with its inconsistent application may discourage many fans from creating their own works, thus both author and fan may suffer a loss. In addition to developing the creativity of the fan-author, fan works can also serve as a powerful marketing tool for the preexistent work. Many companies realize that and use fanworks to promote sales of the preexistent works. However, there are also authors who defend their rights at all costs, but this approach generally harms their reputation and leads to lower sales of their works. The questionnaire distributed by the author of the thesis shows that authors who oppose fanworks are rather in the minority; the majority of respondents, who included not only authors of preexistent works but also fan-authors and consumers of fan works, would be in favor of legislation that would not consider fan works an infringement of copyright.

**Klíčová slova: fanworks, copyright, fanfiction**