

Fans, Copyright, and Subcultural Change: A Review of Sean Leonard's "Progress Against the Law"

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Sean Leonard, a law student at the University of Chicago, wrote an essay, "Progress Against the Law: Fan Distribution, Copyright, and the Explosive Growth of Japanese Animation" to complete a course at M.I.T. entitled, "Ethics and Law on the Electronic Frontier" while a master's student in Electrical Engineering and Computer Science. Issues surrounding Copyright and digital spaces are ones that scholars and entertainment industry agents alike are keen to explore ¹. Leonard's paper is notable for its far-reaching implications, touching upon subcultural level power dynamics, producer/consumer collaboration, and a smaller, more obscure, but increasingly significant facet of globalization. The latter is likely to lurk just under the surface of a Japanese animation club meeting near you.

Leonard's main argument critiques the U.S. copyright regime in its tendency to inhibit fledgling new media industries that rely upon royalty-free mass distribution for their initial survival. He grounds the context of his argument in the recent history of Japanese animation, or anime, fandom in the U.S., discussed in a carefully researched method absent in the rest of the literature on animation from Japan. This alone is an important contribution, particularly to fandom researchers such as myself. However, Leonard concluded this history and analysis of anime fandom by arguing the need to reform, if not subvert, some portions of copyright law; not just for the good of the anime industry in the U.S. during its nascent years, but also for the "progress of the arts" ². In so doing, his essay fails not only to problematize the notion of this progress, but also to address questions related to cross-cultural media reception, subcultural politics, and political economy outside the bounds

of copyright. By dialoging with Leonard's work, this paper will hopefully serve to inspire scholars with the notion that subsequent research may explore on this remarkable trend in globalization.

From the beginnings of a self-aware anime fandom in the U.S. in the mid-1970s, fans have had to rely not just on Japanese media, but Japanese people to obtain and translate this media. Leonard discusses the facts of fan interaction with Japanese American community television, small rental shops located in this community, and even U.S. military personnel stationed in Japan collaborating with citizens of the host nation to acquire anime for distribution in the States ³. In this sense, persons of Japanese descent were practically no different from a U.S. fan group on another coast in that both peoples had new anime to offer to non-initiates.

Apart from this, Japanese and Japanese Americans are invisible in Leonard's discussion of fandom. This is likely not by Leonard's intent, but by virtue of their relative exclusion from fandom that continues to this day, self-selected or otherwise. Exploring this exclusion apart from "Japan(ese)-as-source" is critical in determining how and why fans identify Japan and Japanese people as Other, and what basis, if any, this serves in their conceptualizations of anime and themselves as connoisseurs. Does the relative absence of Japanese people in everyday anime fandom instigate Orientalism, another marginalizing system of discourse that differs from it, or does it bear no significant effects on fandom's libratory potential? Would the fan insistence on retaining the "true" meaning and spirit of an anime title, often conflated with its "Japaneseness",

remain as persistent today if more Japanese people were part of fandom and viewed this “Japaneseness” much differently?

The introduction of the Commodore Amiga in 1989 allowed small groups of fans to insert English subtitles into anime for distribution in North America, a process known as “fansubbing”⁴. Leonard cites this development as loosening the control of distribution by larger, well-organized groups such as the Cartoon/Fantasy Organization (C/FO)⁵. Relying on technological change to explain greater equity in power relationships lends support to technology-inspired initiative over the constraints of copyright regimes. However, this formula marginalizes culture, its own force for change, as a mere response to technology. It alone cannot explain why fans felt that they were watching “real” anime for the first time when English subtitles were present, as Leonard indicates⁶. Did Catholic parishioners in the pre-Vatican II era feel that their services weren’t “real” because they were read in Latin? What might explain the “reality” of subtitled anime for fans as opposed to its presentation in “raw” Japanese? This concern calls for socio-linguistics, cultural and visual anthropology, as well as social psychology to inform explorations of this issue.

Further, power imbalances among participants in a subculture may likely remain or even increase with the introduction of more user-friendly technology. Web technology, for example, can unleash democratizing forces amongst fans to challenge dominant meanings ascribed to anime in weblogs and message boards. This same technology also allows relative behemoths such as AnimeTurnpike.com and AnimeNewsNetwork.com to organize massive amounts of anime-related data and commentary without detailed public input or significant control. Any private volunteer group today would be hard-pressed to exercise C/FO’s level of control of fandom in the 1980s, largely since anime fandom itself has grown exponentially since then. Levels approaching that control, however, can be re-enacted, especially in smaller sub-anime fandoms such as series-specific (e.g. *One Piece*, *Full Metal Alchemist*, *Honey And Clover*) fan groups, given sufficient knowledge and organizational resources put to use online. In short, the question should not be, “How has technology affected anime fandom?” but rather, “In what ways have significant portions of the fandom adopted available technology, and for what purposes?” Leonard’s historical analysis of anime fandom stops at 1993, before fans adopted the Internet on a wide scale, so the web itself would not have come under his scrutiny. Nevertheless,

assumptions about the effects of technology on culture and power should be checked and acknowledged rather than taken for granted.

For Leonard, the main anomaly of interest in his study is the rise of an industry that could not have taken place unless copyright laws were flouted rather than upheld; laws made ostensibly for the good of industry itself. Another anomaly of political economy that deserves attention is subcultural collaboration with an industry as opposed to the rise of an industry itself. Most scholars of subculture are familiar with the pattern of cooptation of subcultural symbols by businesses for commercial exploitation⁷. Anime, however, began as a wholly commercial enterprise mostly aimed to sell advertising airtime and toys associated with a title. Yet, a subculture in the U.S. took up anime as a collection of narratives that, when aggregated, symbolized novelty, earnestness, and even spiritual transcendence. Rather than resisting commercialization, Leonard explained, anime fandom embraced it still as a *venue* to spread it far and wide via the market, rather than as an end in itself⁸. An industry in North America, part of it run by fans and part of it not, did coalesce from these efforts. However, one must ponder whether or not fans entirely viewed North American anime licensing as a positive development, given that it would restrict, rather than embolden access to anime for more impoverished fans. Moreover, fans may have certain expectations about how anime should be distributed to others that do not meet the dictates of industry, as Leonard references in his mention of conflicts over anime shown with subtitles versus those dubbed in English⁹. Researchers should pay greater attention to the ways in which fans share common goals, but have very different ideas on how to, or who should, achieve them. To do so requires not only locating points of conflict, but also how fans on all sides ascribe meaning to conflict per their expectations of what fandom, “mainstream” culture, and anime (or any media artifact) itself are and should be.

Leonard makes a contribution long overdue to academic research into anime, namely narrating and contextualizing a fandom within the labyrinthine intricacies of copyright law. This was an important concern before 1993, but is even more critical in a fandom that finds itself, and its distribution of anime, now largely situated online. His essay should serve as a call for not just legal scholars, but also practitioners of cultural studies to reconsider the relationships between Self vs. Other, fan vs. fandom, and cultural consumption vs. production.

ENDNOTES

1 For research in this area, see Kelty, C. “Punt to Culture”. *Anthropological Quarterly* 77 (3), (2004): pp. 547-559; Merges, R. “A New Dynamism in the Public Domain”. *University of Chicago Law Review* 71 (1) (2004): pp. 183-205.

2 Leonard, S. (2004). *Progress Against the Law: Fan Distribution, Copyright, and the Explosive Growth of Japanese Animation*. Retrieved July 14, 2005 from <http://mit.edu/seantek/www/papers> : pg. 4

3 IBID: pp. 4, 7, 14

4 IBID: pg. 4

5 IBID: pg. 13

6 IBID: pg. 20

7 Cohen, S. (1980). “Symbols of Trouble”. In *The Subcultures Reader* (1997), Gelder, K. & Thornton, S. (Eds.) Routledge: London & New York: pg. 156.

8 Leonard: pg. 16

9 IBID: pg. 25

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