COPYRIGHT CHALLENGES IN THE ADAPTATION OF MANGA TO ANIME AND THE LEGAL IMPLICATIONS OF FAN-CREATED CONTENT

Abstract

This paper examines the copyright challenges arising when Japanese manga are adapted into anime and when fans create derivative works such as fansubs, scanlations, fan fiction, fan art, and fan-made episodes. It first analyses adaptation rights under Japanese copyright law, including Article 27 on adaptation and the treatment of anime as derivative works, and considers regional differences through instruments like the Berne Convention and enforcement initiatives such as the Manga Anime Guardians Project. The paper then explores the legal status of fan-created content, discussing its classification as unauthorized derivative works, key disputes involving DMCA takedowns and high-profile cases, and the range of industry responses from strict enforcement to tolerated fan activity. A further section assesses fair use and analogous doctrines, focusing on transformation, purpose, extent of copying, and market impact in U.S. and Japanese practice. The paper concludes by arguing for a balanced approach that protects original rights while accommodating non-commercial fan creativity

Introduction

Manga and Anime originated in Japan and their fan following is reaching almost every continent worldwide due to the uniqueness of animation and attractive stories. These two kinds of Japanese entertainment have some similarities in visual representation and storytelling techniques while having several differences in the case of the medium of representation and production method. Manga illustrates Japanese comics offering action-packed adventures, and romance through distinct characters published in typically black and white except in special editions. On the other hand, Anime is the adaptation of a Manga series including mature themes and complexities within the characters. Anime and manga both are the representatives of Japanese niche culture from past decades and manga is adapted frequently into anime to reach a wider audience. A single artist creates manga called a mangaka while anime is made with team efforts of voice-over artists, animators and producers[1]. This adaptation process of manga to anime faces challenges and complexities in intellectual property rights, licensing, studios, and publishers. This essay investigates copyright issues involved in the transformation within legal implications and fan-

[1]Hindustantimes.com. 2023. Understanding Japanese Entertainment: The Difference between Anime and Manga.]

created content. The first section of the study will address the legal affirmation of adaptation rights and an overview of international as well as Japanese copyright regulations. The next part of the essay will delve into the significance of anime culture and the legal implications of fan-created content such as fan actions, and fan-made episodes for industry responses. From the findings of these two sections, the third section will represent the impact of fair use of original content for promoting anime and manga globally rather than causing harm to Japanese culture.

Section 1: Adaptation Rights and Copyright in Anime

Overview of Adaptation Rights and the adaptation process from manga to anime

The term ‘adaptation’ in the lens of copyright laws refers to transforming an existing work into a new form by maintaining the specification of the original contents. In the case of creative industries such as film, music, animation, and art domains similar works are represented to audiences in different formats. The intellectual property law (IPR) controls the rights of creators in using, modifying, and repurposing original content. The basic concern of copyright law is to protect the specific idea from the creation of the creator from unauthorized access. The most difficult aspect of applying copyright law in adaptation is to keep it within the line of ‘copyright infringement’ that refers to the illegal distribution of a copyrighted work without authorization. The adaption of manga into anime is practiced through a few stages such as scriptwriting, character development, and storyboarding followed by animation requiring careful consideration of strict copyrights. The enforcement of adaptation rights receives legal challenges due to easy access to the internet resulting in unauthorized adaptation and distribution. Article 27 of the Japanese copyright law adheres to the right of adaptation stating that the copyright holder holds exclusive rights to translate, dramatize, and perform other modifications[2]. This legal framework fosters the necessity for careful negotiation between animators and mangaka to ensure that the adaption remains faithful. Therefore, the animating team of anime often collaborates with mangaka to ensure the fidelity of the actual series including distribution.

Copyright Protection for Anime as a Derivative Work

[2] Iiprd.com. 2023. IP Issues in The World of Japanese Sequential Art – Manga.

In the context of the Japanese Copyright Act, derivative work means a new work based on one or more of the existing protection works. It contains an adaptation in the form of translation or a different style, arrangement, or transformation of an existing work made to express new ideas while embodying the character of the original work. Licensing agreements define the rights that exist, for how long the adaptation will be used, within which geographic jurisdictions, and through which conduits. Without such authorizations, studios are exposed to legal cases that may lead to the shutdown of production or fines. For instance, Article 119 of the Copyright Law of Japan shows that the penalty for infringement of materials under copyright is 10 years imprisonment or fines of 10 million yen[3].

Regional Differences in Copyright Law

Japanese anime and manga, starting with the example of Pokémon in the 1990s, have initiated the formation of Japan's Manga Anime Guardians Project (MAGP) targeting piracy around the world. Japan's Copyright law protects novels, music, and animations, and entitles the owner of a copyright, unlike the laws of the United States of America. For instance, *Popeye* and *Tintin* will enter into the public domain in the USA from the 1st of January in 2025. This is dictated by the U.S. copyright law as the law states that an original work gains access to the public domain after 95 years from its first publication. Japan is a member of the Berne Convention (1899), an international treaty for the protection of literature and artistic works globally[4]. In terms of global collaborations and distributions, streaming platforms such as Crunchyroll, Netflix, and Amazon Prime which operate in various jurisdictions encounter several legal hindrances. These platforms seek licensing agreements with creators and copyright holders for adhering to terms and royalties calculated based on the popularity and number of streaming. For instance, Netflix has successfully co-produced anime such as *Devilman Crybaby* that bridges cultural and legal gaps while maintaining global appeal. Copyright laws vary within countries to prevent the proliferation of pirated content and generate effective revenues for creators and studios.

Case Studies

[3] Liu, Kung-Chung, and Shufeng Zheng. "Asian IP law: an area of rising importance." GRUR International 69.3 (2020): 249-259.
[4] Schendl, Emily. "Japanese anime and manga copyright reform." Wash. U. Global Stud. L. Rev. 15 (2016): 631.

A well-known example of a manga-to-anime adaptation is *Naruto,* which was adapted from Masashi Kishimoto's manga series. The legal negotiations involved securing rights from the original creator and ensuring that the adaptation team had the necessary permissions to proceed. In *Attack on Titan* the adaption process lay in several consultations between the creator of the manga series Hajime Isayama and the Wit studio that initiated the project. The anime makers did not deviate from the manga's sentiments as they brought movie features to the anime with clear licensing of their program and coupling with another company for benefits. On the other hand, the unsuitable legal compliances caused impairments during the illustration of Jojo's Bizarre Adventure anime. In the early stages of the game industry, some games suffered from the misuse of music, and copyright laws and improper usage of designs hindered game production and the market reputation of the studio.

Challenges in Enforcing Copyright

Copyright protection in the anime industry poses lots of challenges with technological advancement. Lack of licensing and releasing copyrighted works in other countries illicitly are one of the crucial problems. Unofficial illustrations or translations harm creators and their revenues as fans post models without authorization. The Internet also presents a major challenge to enforcing copyrights since infringements are cross-border and identifying the offender becomes difficult. Due to the high risk of copyright infringement, studios need to hire lawyers and invest in technology to detect hackers. International regulations, industry associations, and creative industries provide the necessary support to enhance the enforcement structures and IP rights. The emergence of AI-generated fan content such as fan art or fan actions blurs the strict guidelines of copyright ownership due to lack of human involvement. AI-generated treasure of anime raises issues for copyright law and policy by creating modified storylines and visual representations. For example, to mitigate these issues, digital rights management (DRM) technologies are used to protect content against a database of copyrighted material to identify potential infringements.

Section 2: Fan-created content and copyright infringement

Introduction to Fan Works

There are several numbers of fan groups that are motivated to edit, share and translate manga and anime online. In anime, the fan work mainly involves creating 'Fansubs' that are video files with English subtitles. On the other hand, for manga, the fan groups significantly produce 'scanalation' that are the edited versions with English text replacing the original Japanese[5]. However, they believe that they help other fan of understanding and access the Japanese media with feelings of ownership leading towards entitlement issues. This particular fan work often develops out of a deep desire and admiration to engage more deeply with the original content. However, these fan works could take following types:

Fan-made episodes: This indicates animation or videos created by fans which mimic the content and style of the original series.

Fan Fiction: This shows the stories written by fans that continue or expand the original narratives sometimes exploring the alternative plotline.

Fan Art: This involves visual art-created fans such as digital art, paintings, drawings and other featured characters[6].

The fan works significantly lead towards the discussion, discovery and collaboration of new talent in the fan community by allowing them to show their creativity, connect with others and share their interpretation.

Legal implications of fan creation

Under the copyright law, fan works that use the protected elements without any permission could be seen as unauthorized derivative works that might violate original creators' rights. Selling of fan arts without permission cause copyright infringement claims resulting in several legal actions involving fines, cease-and-desist orders or even lawsuits. For example, Disney's hostile copyright enforcement from DMCA notices in '***Star Wars' Fan Art Lawsuit***, where an artist was primarily sued for selling unlicensed Star Wars fan art. The '***Digital Millennium Copyright Act***' notches show the legal complexities around the fan-created content and sharing the copyright materials[7]. In 2015, Disney issued takedown notices to Star Wars fans who posted photos of an early-released

[5] Leigh, Danielle. "Manga before Flowers -- Fanworks and How the Fan Works." CBR, 27 May 2008

[6] "The Intersection of Copyright Law and Fan Made Content." The IP Press, 15 Oct. 2024,

[7] "Disney Slaps Star Wars Fans with Copyright Notices for Sharing Pictures of a Toy Online." CBC, 16 Dec. 2015.

Rey action figure, claiming copyright infringement, also images were user-generated and showed publicly sold merchandise. While Disney wanted to protect its brand and avoid pre-release spoilers, critics say that such moves repress community involvement and create concerns regarding the fair use of items bought in public.

The cases of ***Klinger v. Conan Doyle Estate and Paramount Pictures v. Axanar*** significantly highlight the critical factors of copyright law regarding fan adaptations and creation[8]. In the case of ***Klinger***, the court ruled that characters such as Sherlock Holmes and Dr. Watson entered the public domain in the same way their origin stories were predated in 1923. In the case of ***Paramount v. Axanar***, there are several distinctive features from the Star Trek universe were used, such as logos, uniforms and ship designs in a fan film[9]. It mainly aimed at the implementation of the rules that could greatly balance with the fans but it would also negatively impact the brand image. Although it is acceptable not to criticize fans' creations in a significant way that one can boost the involvement of the targeted community and use the material for costs-free advertisement.

Industry responses to fan creations

The relationship between fan fiction creators and copyright holders is usually complicated by the creators themselves. However, for example, a creator such as J.K. Rowling may feel quite glad over fan content since they treat this as an important sign of appreciation of the work produced by them, whereas authors such as George R.R. Martin and Anne Rice regard it as to an illegal exploitation of intellectual property rights[10]. In 2004, Media Factory which is a Japanese Studio, sent a Cease-and-Desist letter towards AnimeSuki.com which is a popular anime BitTorrent and forum site and demanded to stop sharing torrents of its own products. Therefore, AnimeSuki quickly removed all the torrents and decided not to list any more titles from the media factory. The studio sent similar letters to Fansub groups such as Wannbe Fansubs and Lunar Anime asking them to stop distributing its anime series. During 2016, the Kyoto Prefectural Police arrested the two individuals for effectively uploading the anime episodes with Chinese subtitles without the authorization[11]. Moreover, the international organizations such as Funimation effectively filed a lawsuit against the BitTorrent users for distributing the unauthorized copies of the Anime called

[8] Klinger v. Conan Doyle Estate, Ltd., Justia Law, 2014.
[9] "Paramount Pictures Corp. V. Axanar Productions, Inc. 2016
[10]. "The Fine Line between Fan Art, Fan Fiction, and Finding Yourself Sued." CBA's @TheBar, 11 Nov. 2022.
[11] Crunchyroll.com, 2024.

'One Piece' in 2011. However, the case was eventually dismissed which highlights the commitment towards unauthorized distribution.

Section 3: Fair Use Considerations for Fan Works

Introduction to Fair Use Doctrine

Copyright law has an exception which is known as fair use in which a given amount of the original creation can be used in a limited manner without getting permission from the original creator. Such use of copyrighted work is incorporated within the purpose of continuous commentary, criticism, education, news reporting and parody. In the U.S Copyright Act of 1976, the four principles of fair use include the purpose and character of the use, nature of the copyrighted work, amount comprised to the original work and the effect of the usage on the market for the original work.

Transformative Nature of Fan Works

In the case of fans, work offers a new manner of expression, message or meaning altogether which can be taken into the fair use category. For instance, if the work is fan fiction or fan art, it is re-created in a manner that either parodies or adds elements to the original work. The practices of fans, for instance, can be a case of parody or satire, by building on top of anime or manga, bending the original in attempts of offering social commentary. A parody of critical content created by fans mainly critiques the original work which is more likely to be considered fair use than satire. Manipulating the characters or the motifs of One Piece to point out mistakes or generate new storylines in fun ways altogether by creating fan art is considered one of the prime instances[12]. On the other hand, the Japanese copyright law does not have a general fair use of provision and does not specifically recognize satire or parody as expectations. This indicates that unauthorized derivative works, even it is they are parodies, can hamper the original content creator's rights.

Purpose and Intent of Fan Creations

The common fan-based practices that are made without the aim of earning money are recognized more positively concerning the principles of fair use. The derivative works are not made for

[12] Xiao, Jingxi. "Intellectual Property Issues of Fan Fiction." (2024).

commercial purposes and are incorporated into the fair use assessment; however, it failed to ensure the automatic panoply of fair use protection. Fan fiction and fan art can create demand for the source material bringing new fans to the universe or initiating fans to interact with them more deeply[13]. The commercial intention under the fan works become an issue in bringing fair use claims. Specifically, as a fan work and derivatively created, the work world is likely to be considered fair use unless the fan creator is profiting from it, for instance, if they are selling the work or using the characters in a commercial product. However, in the case of fan works that help the original work to increase the popularity of the show, they may still serve the purpose of fair use since the promotion of the original work cannot be prohibited[14].

Extent of Copying and Market Impact

The assessments of fair use also involved the degree of replicating. Chapter recitation fan works are likely to be non-fair use because they embody a great portion of expressive material from the original work, including scenes and even chapters of the Manga. Nonetheless, writing that adaptively changes characters or with plot features may be more acceptable. For instance, an anime series such as Manga includes a fan-created episode that redescribes its storyline or its visual setting as falling under fair use under sufficient originality[15]. Those fan works that attempt to capture the same sales as the original work or are replicas of the original work are less likely to be considered fair use. However, works contingent on the original works in a non-injurious fashion, such as the fan art that brings awareness to a series, should cause less market harm and are more likely to qualify for fair use.

Judicial Interpretations and Precedents

A few precedents have ruled on the claim to the appropriation or parody right and the limits to the fair use of fan creations. One encouraging example is Campbell v. Acuff-Rose Music, Inc. (1994) where the U.S. Supreme Court considered a parody of a song as fair use because it was

[13] Schroff, Simone. "Where to draw the line: the difference between a fan and a pirate in Japan." International Journal of Cultural Policy 26.4 (2020): 433-445.
[14] Węgrzak, Małgorzata. "Intellectual Property Law in Japan. Contemporary trends and challenges." Gdańskie Studia Azji Wschodniej 21 (2022): 27-40.
[15] Issues in the World of Japanese Sequential Art (Manga)." *Indian Institute of Patent and Trademark*, 2024.

transformative[16]. Legal aspects related to fan works in the Japanese Manga Industry offers a little space for fan art while protecting the author's right to ownership since they do not endanger the authors' commercial interests. Japanese courts have distinguished between transformative stories and those that are reloads done with new commenting or artistic insight. Fan-created translations, which are secondary, transformative and proselytizing are usually acceptable.

Conclusion

The essay concludes that the transformation of Manga into anime shows complex legal nuances relating to copyright law and the preservation of license-specific works from manga production studios. The increasing number of fan-created works such as fan art, fan fiction, and fan-made episodes offers competency since some productions fall on the edge of infringement and remakes. Laws such as the Japan Copyright Act, and the Berne Convention work to protect the rights of the original manga creators and enable the worldwide popularization of anime and manga culture. Nonetheless, due to the changing, creative, and non-commercial-oriented character of fan works, the promotion of new content highlights the need to maintain IPR and encourages the fair use of creative work. Therefore, the global market impact and judicial interpretation emphasize the need for flexibility to protect the existing IP rights while fostering a fan-based appreciation of creativity. For instance, Japan 's Comiket permits the selling of doujinshi which is a fan-made works in light of set measures. Some corporations have taken the time to fully explain what constitutes legal usage and sharing of fan works.

[16] Lee, Hye-Kyung. "Between fan culture and copyright infringement: manga scanlation." Marketing the Arts. Routledge, 2010. 173-190.