



Ghosts and Punks: The Aesthetics of Copyright Law in Graphic Novels and Comics

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Abstract

Graphic justice and the law of aesthetics have in very recent years successfully brought law, aesthetics and comics scholarship into the same space. The culture of copyright infringement within comics (including in the Marvel, DC, and Disney universes) has been extensively in the literature by scholars including Saval. How copyright law is portrayed within the graphic novels and comics *themselves* is the focus (and contribution of) this article. This article will explore several comics and graphic novels, as well as included this author's reflections of portraying copyright visually within zines for public dissemination. Throughout this article, the discourses of ghosts and spectres that are interwoven with copyright law and haunt the texts will be seen, as will the discourses of oppression and warfare that are involved for anyone seeking to make use of copyright works. As Gómez Romero and Dahlman note, comics offer "an alternative legal discourse" and we can see these alternative legal discourses through their aesthetic graphic form. This article will consider: the aesthetic portrayal of copyright law in *A Gift for a Ghost* and *Josie and the Pussycats No. 6*; as well as *Bound by Law, Theft! A History of Music*, and *Pictures within Pictures*. These comics and graphic novels have been chosen as they aesthetically portray copyright law and copyright infringement (referred to in some of the comics as "plagiarism"), and others aesthetically portray the public domain and fair use. In viewing these aesthetic manifestation of copyright law, the reader understands the limiting nature of copyright on creative freedoms, and that copyright law's power is absolute. This article will explore the following: (i) copyright's aesthetic portrayals and the impact of this; (ii) comics haunted by copyright law, considering *A Gift for A Ghost* and *Josie and the Pussycats*; (iii) comics about the necessity of the public domain and fair use, considering *Bound by Law, Theft! A History of Music*, and *Pictures within Pictures*; and (iv) self-reflections on portraying copyright aesthetically in publicly disseminated research zines. This article has not set out to determine that certain visual aesthetic portrayals are "correct" or "better", but rather to explore how legal discourses and narratives about copyright law are circulated through the comics medium. These visual depictions hold considerable weight, and it is striking to see similar narratives used across a range of comics

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works, with different intended audiences. What is clear is that the visual depiction of copyright law enables a greater ability to convey the multiple copyright law discourses that can be felt at once, and also to highlight that some of these discourses are contradictory to one another.

Keywords Comics · Graphic novels · Copyright law · Zines · Ghosts · Copyright infringement · Legal discourses

1 Introduction

In the beginning, there was copyright law... Well, this is not quite true; but it can seem that way to a number of people wanting to interact with copyright works, perhaps as inspiration for their own works, or to share with others. As Tranter observed, “law is seen”.¹ And what we see looking around is, are the restrictions placed on us by copyright law. Films including *Little Women*² and *Free Guy*³ have direct references to copyright law in them, and *Free Guy*’s plot revolves around copyright infringement and a copyright licensing agreement. The news recounts the latest music copyright infringement cases,⁴ and so on. These depictions reenforce a public perception of copyright law as oppressive, and something to be wary of.

How law and legal discourses are represented and visually portrayed have thus become important academic fields across all areas of law, not just copyright and intellectual property. Graphic justice and the law of aesthetics have in very recent years successfully brought law, aesthetics and comics scholarship into the same space. The culture of copyright infringement within comics has been discussed in the literature, by scholars including Saval. How copyright law is portrayed within the graphic novels and comics *themselves* is the focus (and contribution of) this article.

This article will explore several comics and graphic novels, as well as included this author’s reflections of portraying copyright visually within zines for public dissemination. Throughout this article, the discourses of ghosts and spectres that are interwoven with copyright law and haunt the texts will be seen, as will the discourses of oppression and warfare that are involved for anyone seeking to make use of copyright works. As Gómez Romero and Dahlman note, comics offer “an alternative legal discourse”,⁵ and we can see these alternative legal discourses through their aesthetic graphic form.

¹ Tranter, K. (2017) Seeing Law: The Comic, Icon and the Image in Law and Justice. *Int J Semiot Law* 30, pp. 363–366, pg. 366 <https://doi.org/10.1007/s11196-017-9510-4>.

² Directed by Greta Gerwig in 2019.

³ Directed by Shawn Levy in 2021.

⁴ For instance, Ed Sheeran has recently successfully defended a claim of copyright infringement in relation to one of his songs. See *Sheeran v Chokri* [2022] EWHC 827 (Ch).

⁵ Gomez Romero, L. and Dahlman, I. *Justice framed: law in comics and graphic novels* (University of Wollongong, 2012) (Available at: <https://ro.uow.edu.au/lc/vol16/iss1/2>).

This article will explore the following: the aesthetic portrayal of copyright law in *A Gift for a Ghost*⁶ and *Josie and the Pussycats No. 6*⁷; as well as *Bound by Law*,⁸ *Theft! A History of Music*,⁹ and *Pictures within Pictures*.¹⁰ These comics and graphic novels have been chosen as they aesthetically portray copyright law and copyright infringement (referred to in some of the comics as “plagiarism”), and others aesthetically portray the public domain and fair use. A recent comic about the superhero MicroFace¹¹ is a further example of dual or competing copyright narratives being simultaneously portrayed, but will not be explored here in depth.

For instance, in the beautiful graphic novel which will be one of the comics discussed in this article, *A Gift for a Ghost*, we see the characters argue over song lyrics for their punk band, which it transpires have been plagiarised from other sources. The story is not about copyright law, and yet we see that copyright law and the fear of being sued for copyright infringement acts as a pivotal moment within the graphic novel. Indeed, the fight between the characters caused by the so-called plagiarism, and the time-travel narrative with the poems that become the song lyrics, sits at the heart of the story. Implicitly, the narrative is wholly shaped by copyright law, and how copyright law is aesthetically portrayed in the graphic novel.

In viewing this aesthetic manifestation of copyright law, the reader understands the limiting nature of copyright on creative freedoms, and that copyright law’s power is absolute. This is particularly poignant in this graphic novel; as ghosts roam, parallel timelines overlap, and gender expectations are challenged, yet copyright law remains an overpowering (though shadow-like) force in the narrative. This echoes Peters’ concept of “seeing law”,¹² through its visual aesthetic.

This article will explore the following: (i) copyright’s aesthetic portrayals and the impact of this; (ii) comics haunted by copyright law, considering *A Gift for A Ghost* and *Josie and the Pussycats*; (iii) comics about the necessity of the public domain and fair use, considering *Bound by Law*, *Theft! A History of Music*, and *Pictures within Pictures*; and (iv) self-reflections on portraying copyright aesthetically in publicly disseminated research zines.

⁶ Borja González, *A Gift for a Ghost* (Abrams ComicArts, 2020).

⁷ Marguerite Bennett, Cameron Deordio, Audrey Mok and Kelsey Shannon, *Josie and the Pussycats* Volume 2, Issue 6 (Archie Comic Publications, 2018).

⁸ Keith Aoki, James Boyle, Jennifer Jenkins, *Bound By Law*, 2006, 2008. Creative Commons Attribution-NonCommercial-ShareAlike 2.5.

⁹ James Boyle, Jennifer Jenkins and Keith Aoki, *Theft! A History of Music*, 2017. Creative Commons Attribution-NonCommercial-ShareAlike 3.

¹⁰ Keith Aoki, *Pictures within Pictures* (2010) *Ohio North University Law Review*, 36. Available at SSRN: <https://ssrn.com/abstract=1726137>.

¹¹ NPR Planet Money, *Micro-Face: A Planet Money Comic Book* (Forthcoming, 2022). Created by the NPR Planet Money podcast—<https://www.npr.org/podcasts/510289/planet-money>.

¹² Peters, T.D. (2017) I, Corpenstein: Mythic, Metaphorical and Visual Renderings of the Corporate Form in Comics and Film. *Int J Semiot Law* 30 pp. 427–454 <https://doi.org/10.1007/s11196-017-9520-2>.

2 Part I—Copyright’s Aesthetic Portrayal

Law and legal discourses do not exist only within “silos”,¹³ but are interconnected with our everyday lives. Zeidler says it sublimely when he comments that “aesthetics is the general theory of the beautiful”.¹⁴ Beauty and visual aesthetics, and the perception of our senses are fundamental to these varied experiences and interactions that we have, and our interactions with the law are no different in that respect.

Copyright law is well-versed in scholarship about aesthetics, but this scholarship is largely focused on whether there is/should be the requirement of a work to have some base level of aesthetic/ beauty value to qualify for copyright protection under one of the protected categories of work.¹⁵ That is not the focus of this article. Here, we are moving away from the debate as to whether works must have some level of aesthetic value to fall within copyright protection; and instead focusing on the broader aesthetics of copyright law *itself* as the subject.

Giddens, in his book about cultural legal aesthetics and comics, notes that legal aesthetics enables us to visually see law’s “conscious/unconscious structure, with a conscious legality that is grounded in reason and textual discourse underpinned by a legal unconscious of visuality, embodied experience, emotion, and aesthetic engagement.”¹⁶ It is this legal unconscious that is more prominent when displaying law visually, and brings things to the surface that might otherwise remain obscured. As Giddens has noted, aspiring lawyers are taught to think about the law and to interpret it through “the exercise of reason within textual limits”,¹⁷ which operates to reject both a more imaginative interpretation of the law, and also to reject an acknowledgement of the fundamental aesthetics of the law, legal processes, legal trials, etc.

He goes on to say that through “aesthetics, comics and law can be understood as different ways of knowing and communicating the world.”¹⁸ It is this focus on ways of knowing and of the different discourses that comics can convey that is of particular interest to this article. Cartoon characters portrayed visually in comics and graphic novels fall within copyright’s scope, and are therefore restricted by it.¹⁹ *From this, their visual aesthetic portrayal within comics, graphic novels, and zines has a dual aspect: they are characters existing within the medium of a comic book and protected by copyright’s scope from illegitimate or unauthorised copying; and*

¹³ Tranter, K. (2017) Seeing Law: The Comic, Icon and the Image in Law and Justice. *Int J Semiot Law* 30, pp. 363–366, pg. 364 <https://doi.org/10.1007/s11196-017-9510-4>.

¹⁴ Zeidler, Kamil, *Aesthetics of Law* (2020)., pg. 8 Available at SSRN: <https://ssrn.com/abstract=3774196> or <https://dx.doi.org/10.2139/ssrn.3774196>.

¹⁵ For recent scholarship on this topic, see for example, Koray Güven, Eliminating ‘Aesthetics’ from Copyright Law: The Aftermath of *Cofemel*, *GRUR International*, Volume 71, Issue 3, March 2022, Pages 213–225, <https://doi.org/10.1093/grurint/ikab113>

¹⁶ Giddens, T. *On Comics and Legal Aesthetics: Multimodality and the Haunted Mask of Knowing*. (Discourses of Law). (Routledge, 2018), pg. 1.

¹⁷ Giddens (n.16) 8.

¹⁸ Giddens (n.16) 8.

¹⁹ Tan, D. (2017) Semiotics and the Spectacle of Transformation in Copyright Law. *Int J Semiot Law* 30, pp. 593–623, 594. <https://doi.org/10.1007/s11196-017-9508-y>.

these same characters and comics are able to convey discourses about copyright law to the reader.

Semiotics is a crucial aspect of this visual aesthetic portrayal of copyright within the comics medium (being the study of signs and symbols and the meanings these signs and symbols carry). Copyright law, the authorship–and ownership– of copyright works, and the potential legal consequences of copyright infringement are all conveyed and imbued in the sign we use to denote copyright: ©. Taking any book, piece of music, website, many artforms, maps and so on, it is very likely we will find this © somewhere on the work. Indeed, the © symbol functions precisely *because* the general audience can easily interpret the © symbol and its conveyed meanings and legal discourses. This symbol carries the authority of the law, it directs the readers or observers of the work as to its authorship, and it reminds these readers and observers that law regulates these creative and artistic manifestations. The symbol tells us what we can and cannot do, and reenforces the power of the law.

Comics are often imbued with many semiotic meanings, and comics characters have a life outside of the comics medium, in which the reader instantly recalls the morals, discourses, contexts, and viewpoints that a particular character, Snow White or Iron Man for example, embodies. In a compelling article, Tan²⁰ compares “famous trademarks” with iconic copyrighted characters such as Sleeping Beauty and Mickey Mouse from Disney’s films, and comments that in both instances, “the audience will automatically and consistently think of the coded meanings and values (the signified) when they are exposed to the character signifiers...”²¹ We see a similar phenomenon emerge for copyright law and the © symbol, which evokes immediate reactions from readers, and consequently also evokes the meanings that readers associates with copyright law.

There is a twofold, intertwined issue in public perception to copyright: their copyright literacy (whether they are knowledgeable about copyright law, or indeed aware of it); and their level of copyright tolerance (i.e., do they feel confident about copyright law and making use of copyright works, or do they feel wariness or even copyright fear?) Public attitudes towards intellectual property are mixed, with evident uncertainty about what intellectual property rights are, and whom they benefit.

For example, Which? carried out research into how consumers view copyright law, and found that of their sample, 66% of people asked said they were unsure about what is legal and what is illegal under current copyright law.²² This is highly problematic, as the public must understand the law in order to adhere to it. As Mandel states, the intellectual property system is a behavioural one that seeks to direct the behaviours of its users, and thus the public understanding of this system

²⁰ Tan also argues that copyright law needs to become “more receptive to a semiotic influence that recognises countercultural and subcultural recoding as a transformative use of the original work...”, see Tan (n. 20) 594. His larger eloquent argument on the transformative nature of fair use in a US context won’t be explored here for space, but is compelling.

²¹ Tan (n.19) 603.

²² Which? (2014) “Consumer attitudes to copyright reform Format Shifting: Private Copying Exemption”, pg. 1. Available at: https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Which_Copyright.pdf.

is “integral” to its success.²³ In 2016, the EU Intellectual Property Office carried out 26,000 interviews across Europe to assess the perception and awareness of intellectual property.²⁴ The report found widespread confusion about which activities are legal, and how to obtain legal copies of copyrighted material. The report highlighted serious gaps in intellectual property knowledge.²⁵

The “public scepticism” towards copyright laws is a major challenge for legislators and policy-makers.²⁶ Anecdotally and through research, we see that people are wary of, and sometimes fearful, of copyright and accidental copyright infringement. What is interesting to note is that the fear of potential infringement usually outstrips the statistical likelihood of someone being sued for copyright infringement.²⁷ In my doctoral research into copyright practices within film archives, I was struck by the comment made by a member of one of the film archives that the fear of copyright infringement was high across the archive, but there had only been a handful of occasions in which a potential copyright owner contacted the film archive, unhappy with a use of their work.²⁸

That said, there has been a rise in copyright infringement activities in the past few years, which has further exacerbated copyright fears. For instance, Sag and Haskell have coined the term “copy trolling” to refer to a new phenomenon of a small group of copyright owners in the US filing thousands of lawsuits against John Doe defendants (sometimes individuals, sometimes thousands of people) alleging online copyright infringement.²⁹

So, it seems that the threat of potential copyright infringement is a spectre, and haunts the public’s perception of what copyright is, what its purposes are, and who it seeks to benefit.

²³ Gregory N. Mandel, *The Public Perception of Intellectual Property*, 66 Fla. L. Rev. 261 (262). Available at: <http://scholarship.law.ufl.edu/flr/vol66/iss1/5>.

²⁴ European Union Intellectual Property Office (2017) “European Citizens and Intellectual Property: Perception, Awareness, and Behaviour”.

²⁵ The countries in which the highest number of people said they had a ‘very good’ understanding of intellectual property were Poland and Slovakia, both at 35%, see European Union Intellectual Property Office (2017) “European Citizens and Intellectual Property: Perception, Awareness, and Behaviour”, pg. 33.

²⁶ Justine Pila and Paul Torremans “European Intellectual Property Law” 2016 New York: Oxford University Press, p. 243.

²⁷ To illustrate this point, a survey of 2,828 respondents within the US cultural heritage sector found that only one respondent reported being involved in legal proceedings over copyright infringement, and only 10% reported being challenged on the legality of the usage (Aufderheide, Miloserich and Bello, 2016, p. 2019). This highlights that the fear of copyright litigation is far greater than its occurrence.

²⁸ Stockton-Brown, M., 2022. Out-of-Commerce: How the Existing Copyright Practices in Film Archives Impact on Widening Public Access to Cultural Heritage. *Journal of Intellectual Property, Information Technology and Electronic Commerce Law* 13(1). See also Stockton-Brown, M. and Tatum, A., 2021. *Finding the Lost Films: Out-of-Commerce Works in the Archive*, available at: <http://eprints.bournemouth.ac.uk/35905/>.

²⁹ Sag, Matthew and Haskell, Jake, *Defense Against the Dark Arts of Copyright Trolling* (January 1, 2018). 103 Iowa Law Review 571 (2018), p. 574. Available at SSRN: <https://ssrn.com/abstract=2933200>.

3 Part II—Comics Haunted by Copyright Law: A Gift for A Ghost; and Josie and the Pussycats

One of the discourses or semiotics that is carried throughout both comics and law cases, is the ghost, or spectre. This may be unexpected, but in the examples chosen for discussion in this article, we see that copyright is aesthetically represented as an oppressive, spectral force—that warps the lives of the characters/ exists as a force that haunts the texts.

The brilliant case of *Cummins v Bond*³⁰ provides us with an examination of the role of ghosts within copyright law, and of whether ghosts can be the authors of copyright works. In this case, Cummins was a medium who went into trances during seances and would write extraordinary amounts of text in archaic English, allegedly communicated to her by the spirit Cleophas (and Cleophas has been dead for approx. 2000 years). Cummins maintained that these texts were the words of Cleophas. When these texts were published by Bond without Cummins' permission, it led to a copyright dispute over the authorship: was this written by Cummins, the ghost of Cleophas, or even Bond (as he had put his hand on hers during the writing seances)?

It is a situation so implausible that it can only be true; and the courts had the strange task in determining who, or what, could claim copyright authorship in this work. The court rejected the idea that copyright could be held by “someone already domiciled on the other side of the inevitable river. That is a matter I must leave for solution by others more competent to decide it than I am. I can only look upon the matter as a terrestrial one, of the earth...”. Cummins was held to be the copyright owner, as the person who had channeled the information into the texts. Ghosts, it seems, cannot be copyright authors.

We see that these concerns of copyright, and whether ghosts can own copyright in a work, resonate still today. In 2021, the US Copyright Office clarified that: “the Office cannot register a work purportedly created by divine or supernatural beings, although the Office may register a work where the application or the deposit copy(ies) state that the work was inspired by a divine spirit.”³¹ It is quite extraordinary to see this guidance, and to understand from it that people have starkly different views of the roles gods and ghosts play in granting inspiration and wisdom.

This fixation on authorship, inspiration, ownership, and the role ghosts play in the writings of great works, can be seen as a strong narrative thread interwoven throughout the first comic book this article will explore: *A Gift for a Ghost*. In the beautiful graphic novel, *A Gift for a Ghost*, by Borja González, we see “two parallel stories reflect and intertwine in a tale of youthful dreams and desires...As their world and Teresa's intersect, they're haunted by the echo of something that happened 160 years ago.”³²

³⁰ *Cummins v Bond* [1927] 1 Ch. 167.

³¹ US Copyright Office, “Copyrightable Authorship: What Can Be Registered”, Ch 313.2. Available at: <<https://www.copyright.gov/comp3/chap300/ch300-copyrightable-authorship.pdf>>.

³² Blurp in the book jacket cover of *A Gift For A Ghost*.

This graphic novel is visually stunning, with beautiful bold colours and an illustration style that is whimsical, and the fact that all character faces are left blank adds to the dream-like quality of the narrative. The 1856 narrative strand follows Teresa, who writes horror poetry despite her family's criticism of this as a hobby, and who buries her writings in a small wooden box in the forest by the lake. In the 2016 narrative strand, three teenage girls start a punk band named *Black Holes*. We see that one of these girls finds the poems, and begins mixing these poems "with a book by Stephen Hawking" to create the band lyrics, without the knowledge of the other two girls.

When this comes to light, there is an emotive argument between them all. Having explained that she "mixed them together", the girl then insists, "B...But now they're our songs. / I only wanted to do something new." One of the other band members then responds, "Like hell they're ours! / You've fucked everything up!" ... "This is plagiarism. We can't use them. / Someone could sue us!" Here, we see direct and explicit reference to plagiarism/ copyright infringement, and linking this immediately to the risk of being sued. The other girl then subsequently responds to this, "Who do you think the Black Holes are? / ... Who would want to listen to this fucking shit...???", implying that no one cares enough for the band's music to sue them for plagiarism.

What becomes clear to the reader is the fundamental error in having used writings that belong to someone else without their permission. The fight between the characters caused by the so-called plagiarism, and the time-travel narrative with the poems that become the song lyrics, sits at the heart of the story. The story is not about copyright law, and yet we see that copyright law and the fear of being sued for copyright infringement acts as a pivotal moment within the graphic novel. Implicitly, the narrative is therefore wholly shaped by copyright law. In viewing this aesthetic manifestation of copyright law, the reader understands the limiting nature of copyright on creative freedoms, and that copyright law's power is absolute. This is particularly poignant in this graphic novel; as ghosts roam, parallel timelines overlap, and gender expectations are challenged, yet copyright law remains an overpowering (though shadow-like) force in the narrative.

Josie and the Pussycats Issue 6 is a comic published by Archie Comics. In this comic, we see the three band members of Josie and the Pussycats kidnapped and taken to an ice palace in a fictional part of Antarctica, to stand trial for alleged plagiarism of their song lyrics. Their captor is Alexander, who is seeking vengeance from Josie for what he believes was gross mistreatment of his sister Alexandra (as Alexandra and Josie used to be very close friends), and Josie's alleged plagiarism, as Alexander believes that the band's song lyrics should belong equally to his sister.

The bandmembers are all "arrested for plagiarism", and tried in a pseudo-trial, over which he presides; evidenced in his comment that "*I'm the judge, jury and executioner*". Alexander says "And so I will prove, beyond a shadow of a doubt, that Josie and her so-called Pussycats stole every song they have ever performed from my sister, Alexandra Cabot. / Their unconscionable crime has "earned" their fame, wealth and success, and I intend to seek proportionate reparations from this court." We see clear legal discourses and terminology being used here, in particular the idea of "reparations", or financial remedy for a civil wrong.

Alexander says of his sister Alexandra, "...My sister *didn't* write these songs. But Josie *never* could have written them without my sister's influence. They were inseparable; *ipso facto*, their work is inseparable." This is an interesting commentary on co-creation, and of potential joint-authorship within copyright law. Alexander is stressing that someone's influence or ideas should be regarded as being part of the authorship, and therefore ownership, of the work, as he regards them as "inseparable". Josie responds to this with "My friendship with Alexandra was important, yes. But that's *my* notebook, Alexander. It doesn't just have my *name* on it. It has *my* handwriting, *my* sweat and blood, *my* DNA."

We are presented as readers with the moral uncertainty of who inspired what part of these lyrics, and whether this inspiration or influence should therefore entitle copyright ownership and authorship of these lyrics. Of particular note is the focus on the band's success—and this conveys that this copyright dispute is of greater importance, given the financial and career success this has brought the band. As with *A Gift for A Ghost*, there is a clear reference to money and of being sued within these copyright discourses.

The pseudo-court trial uses traditionally legal language: such as *ipso facto*, "Your Honour", references to human rights violations and crimes, and the reference to judge, jury, and executioner. The legal trial is portrayed in a way that closely resembles a true-life legal case, with the comic having "court recesses" and the defence being able to call a recess to consider new evidence. The theatricality of the legal courtroom process and the legal courtroom architecture, the reliance on archaic Latin terms that many people are unfamiliar with, and the strangeness of law's declaration of its own authority,—these issues aesthetically convey discourses around the legal process, law courts, and justice itself.³³ In reading the text of the panels, in viewing the artwork and seeing the confusion and outrage of the band members during the "trial", we as readers are left with the sense that this legal process is a strange, uncompromising, and brutal one. The comics medium is a perfect vehicle for these meanings to be conveyed, as it is unlikely that these multiple meanings could be conveyed so well through writing alone.

In *Josie and the Pussycats*, the pseudo plagiarism/ copyright infringement trial is not resolved through the legal process. Instead, it is only when Alexander's sister arrives and convinces him to end the trial he is holding (in his eyes to avenge the treatment of his sister). Likewise, in *A Gift for A Ghost*, we see that the three girls in the band do not reconcile their argument, and as a reader we do not know if they will salvage their friendship and the band. In both comics, we therefore are aesthetically presented with copyright law/ plagiarism as something that cannot be overcome, that distorts the lives of the people who come into contact with it. Indeed, in *Josie and the Pussycats*, we are also left with the distinct impression that the legal process

³³ "Indeed, the visual image has a strong tradition in law, including in the visual presentation of text. The institution thus presents itself via the layout of courtrooms, the wearing of wigs, gowns, and other uniforms, and the formats of case reports. In this way law implies the presence of its sensory dimensions—accessible via the aesthetic—even if such presence remains part of the institution's unconscious", see Giddens (n.17) 10.

itself is archaic, arbitrary, and there is little protection for the rights of individuals against larger, more powerful entities.

It is a strange coincidence that these two separate texts, with different audiences and narratives, both have a focus on a punk rock band of three women musicians, who face difficulty or opposition in their creative music-making through allegations of plagiarism, or copyright infringement. Whilst there is not a literal ghost haunting the narrative of Josie and the Pussycats -unlike in *A Gift for a Ghost*- Alexander is acting on his sister's behalf in organising the trial (without her permission or knowledge), and in this sense Alexandra and her creations are effectively haunting the narrative. It is thus stranger still that both texts aesthetically convey copyright disputes with discourses of creativity and music-making, groups of three strong women, and ghosts/ spirits.

In reading these texts together, there are discourses that seem to float to the surface of the masculinity of the law, and of its hard edges that do not bend. The two comics aesthetically convey the power of three, and can be read as having conations of a witch's coven, and of female solidarity. As a reader, these texts convey the difficulty that the power of three women have in fighting back against the cold and rational, masculine copyright law.

However, there are also other implicit discourses about copyright law conveyed aesthetically in this comic, alongside the explicit narrative of the plagiarism trial. The ice palace and its armoured bear guards is reminiscent of Philip Pullman's *His Dark Materials* trilogy,³⁴ with one of the bears named Iorek and referring to a hot air balloon—all references to *His Dark Materials*. Deliberate intertextual allusions, or a metatextuality, like this are a way of uniting one text to another, either explicitly or implicitly.³⁵ In addition, one of the characters, Melody, starts to sing lines from *Frozen*'s *Let It Go*,³⁶ and Valerie stops her saying "We're in the middle of a plagiarism trial and you were going to sing *that entire chorus*?" We see through these clear, deliberate references to internationally known book series and films/ music, that this comic is aesthetically presenting us with a less overt copyright discourse: that fair use/ fair dealing of copyright works is allowable, and should be encouraged.

³⁴ A trilogy of children's fantasy novels written by Philip Pullman and published by Scholastic, comprising: *Northern Lights* (1995); *The Subtle Knife* (1997); and *The Amber Spyglass* (2000).

MacNeil has written a fascinating article that explores how much of Pullman's fantasy world acts as a metaphor for intellectual property rights, the collective commons of the public domain, and looks at these concepts particularly within the digital context. As he puts it: "...how are we, as isolated and anomised subjects, cut off from each other's worlds, to build collectively...the 'republic of Heaven'". See William P. MacNeil (2017) "His Dark Legalities: Intellectual Property's *Psychomachia* in Philip Pullman's *His Dark Materials* Trilogy" *Liverpool Law Review* 38(11), pp. 11–3, 28.

³⁵ Genette, G. *Palimpsests: Literature in the Second Degree*. Channa Newman and Claude Doubinsky (trans.). (University of Nebraska Press, 1997) p. 4.

³⁶ The song "Let It Go" by Idina Menzel, in the *Frozen* film (Walt Disney, 2013).

4 Part III–Comics About the Necessity of the Public Domain and Fair Use

Moving from exploring how copyright's remit is aesthetically portrayed in comics and graphic novels, this Part III will explore how the public domain is aesthetically portrayed within comics and graphic novels, in displaying the absence of copyright law, and aesthetically showing what sits in its place.

The public domain is a legally and socially contested space within copyright scholarship, and within our everyday interactions with copyright works. Deazley has written extensively and eloquently about the public domain. He comments that the public domain is often disregarded by IP lawyers as “a nebulae, a space without former clearly defined boundaries”,³⁷ and that it is seen as “that which is left when intellectual properties expire or are abandoned—a negative space...”³⁸ Of course, as Deazley and other scholars have well established, the public domain is not simply the antithesis of copyright law, but a fundamental cultural and creative shared consciousness, reference point, and inspiration. It is our cultural heritage, and is also of great economic benefit.³⁹

Drassinower argues that copyright is a communicative act between the audience and the author, and therefore that “copyright infringement is wrongful because it is compelled speech.”⁴⁰ From this, Drassinower has therefore also remarked that “[i]n the world of copyright, an author is no sovereign despot in an inverted world of commodities. She is rather a citizen among others in the great Republic of Letters.”⁴¹ Some of this communication takes place within copyright's boundaries, but a substantial part of this dialogue between reader and author, this great Republic of Letters, can only exist through the public domain.

Bound By Law is a long-form comic/ graphic novel by legal academics, and in it we follow the narrative of a documentary filmmaker seeking to navigate the copyright complexities in making her film. This explores the necessity of fair use in the US context, and of the public domain. In *Bound By Law*, we see the character using a metal detector in a field with © copyright logos all over the floor. She comments

³⁷ Ronan Deazley “*Rethinking Copyright: History, Theory, Language*” 2008 Cheltenham: Edward Elgar Publishing, p. 103.

³⁸ Deazley (n.37) 103.

³⁹ For instance, the UK's Intellectual Property Office found that in an analysis of 1,933 Kickstarter campaigns, the use of public domain materials and third party licensed materials were “significantly associated with the higher likelihood of project success.”- *See for the full report*, UK IPO “Copyright and the Voice of the Public Domain: An empirical assessment) IPO 2015/11, Crown Copyright 2015, pg. 3 The UK IPO has also carried out an assessment of pictures attached to 1,700 Wikipedia biographies, the IPO found that pages with public domain images or photos received between 17 and 19% more visits than similar pages with no image. They concluded logically that this was a reflection on the way users assess the authenticity and authority of information. The troubling aspect was that less than 58% of authors born after 1880 have an image or photo attached to their biography on Wikipedia, due to copyright restrictions, see for more IPO “Copyright and the Voice of the Public Domain: An empirical assessment) IPO 2015/11, Crown Copyright 2015, pp. 3–4.

⁴⁰ Abraham Drassinower, 2015 “What's Wrong with Copying?” USA: Harvard University Press, pg. 8.

⁴¹ Drassinower (n.40) 226.

“This is like a minefield. I’m scared I might discover what’s copyrighted the hard way, when it blows up in my face!”

In a later panel, the character is portrayed as a superhero, with a shield in one hand with “FAIR USE” and an American eagle and stars on it. She is holding a gun, and is facing off against what she describes as a “crazed out-of-control “rights monster”.” The so-named crazed rights monster is the Goliath to her David, towering above her; and is a monstrous cyclops, with a clear © copyright logo emblazoned on its forehead.

In another panel, one the characters comments that “So to many artists the question of “fair use” can seem like a game of blind man’s buff.../Or a surrealist garden of intellectual property delights.” The illustration in these panels is bizarre and beautiful, with blindfolded people walking around in a painting clearly echoing Salvador Dali’s, *The Persistence of Memory* (1931) with copyright logos in the places that Dali’s painting has clocks.

By the same legal academics is the comic, *Theft! A History of Music*, about music and US copyright law. In describing the public domain, the comic describes it as “The void.../ science knows little of it, yet it makes up 90% of everything around us.../ Is this strange substance the missing mass?... Dark matter?/ No, it is the public domain...”.

On this same page in the comic is the depiction of a nebulae cloud in outer space, and then moving closer in each panel to zoom in on a gothic-style house on the Moon/ a bare rocky planet. The visual aesthetic here of the public domain, as quite literally “a nebulae, a space without former clearly defined boundaries” as Deazley has described some perceptions of the public domain, falls within this discourse of copyright law’s kingdom as somehow the default position, and the public domain sits outside of this kingdom.

In Aoki’s *Pictures within Pictures* article/ comic about copyright law, fair use, and creative freedom, one page⁴² stands out in particular. On this page, Aoki represents copyright through robots, reminiscent of Transformers,⁴³ who are built to spread copyright works and collect payments for their use, with the distinctive © symbol repeated across their body armour. These robots go on to create “lawbots who filed lawsuits when people didn’t pay.” The lawbots carry contracts in their hands, the eternal symbol of the lawyer.

In the following panel, we see the emergence of copybots, robots who help people copy the works without permission or giving payment to the robots. These copybots have the pirate-style skull and crossbones on their chests and heads. “Tensions continued building between the different types of bots until one day, it erupted into open confrontation!” The panel is an epic show-down between one of the copyright robots, and one of the copybots, demonstrating the magnitude of their struggle over copyright law. The final page of this brilliant comic/ article leaves us to choose what the outcome of this epic robot showdown will be, with a note from Aoki to “choose wisely” which robots will win.⁴⁴

⁴² Aoki (n.10) 14.

⁴³ Based on the original comics published by Marvel Comics.

⁴⁴ Aoki (n.10) 15.

The aesthetic portrayals in these three comics by the same group of legal academics and creative practitioners presents copyright to the reader as somewhat oppressive and militant. It is bound up with references to warfare, and to an unfair fight which favours the copyright holder (particularly the monstrous “rights monster”). The public domain is shown to be vital in these comics, with many examples given of how earlier works inspire later works, and interact with one another. In that sense, we are seeing an aesthetic portrayal of the public domain that is similar to the concept of the great Republic of Letters; but that this Republic only flourishes when a work is no longer/ not subject to copyright duration.

That said, there is another discourse that is perhaps more implicit: that people can fight back against these copyright “monsters”. The visual depictions show people finding out what their legal rights are in using copyright works, in defending themselves against copyright claims, and shows the benefits that creatively reusing or being inspired by previous works leads to. Again, it is the visual medium here that is facilitating these multiple copyright discourses.

While exploring the public domain, a comic *Micro-Face* by the NPR Planet Money podcast is well-worthy of discussion. The NPR *Planet Money* podcast recently revived a superhero comic character from the public domain (and therefore no longer in copyright), Micro-Face. As Planet Money note, “Planet Money went searching through thousands of public domain characters and fell in love with the 1940s sonic avenger Micro-Face. He was everything a podcast could have hoped for: super-sensitive hearing, photoelectric vision, and the kicker—a microphone strapped to his face.”⁴⁵ They have created a new comic about Micro-Face, and are already utilising the character commercially. Copyright law is inherently manifested in all aesthetic depictions of the character and dominates the trajectory and future of Micro-Face. Micro-Face is aesthetically embodying opposing legal realities: his existence and current usage stems from the freedom of the public domain; and the current usage of the character by *Planet Money* stems from normative conception of copyright law and the power to restrict the freedom of uses by others.

5 Part IV—Self-Reflections on Portraying Copyright Aesthetically

Portraying copyright in graphic form carries with it responsibility and opportunity as an academic, in considering which copyright narratives will be reenforced. This author has had to consider the aesthetic portrayal of copyright law extensively, when disseminating copyright law research as zines, and as a film. A balance has to be found in accurately and faithfully producing the experiences and views people have of copyright law in these aesthetic forms, whilst also considering if certain portrayals could act to inadvertently further copyright fear and wariness. I fundamentally believe, as a copyright academic and creative practitioner, that copyright law is useful and can provide independent creators with recognition for their work and a

⁴⁵ NPR shop, “Micro-Face: A Planet Money Comic Book”. Available at: “<https://shop.npr.org/products/micro-face-planet-money-comic-book>”.

regular income; and that copyright law should not be so restrictive and oppressive that it hampers the very creativity it seeks to encourage.

Below in this section I have reflected on copyright law research zines I have created to disseminate research findings freely with the public and other stakeholders, and considered how I have visually portrayed copyright in these zines.

*FrankenZine: Voice, Copyright, And Women Authors*⁴⁶ is a zine about women's authorship, copyright, creativity, and voice. It focuses on women authors and their historical and contemporary experiences of being recognised as the authors of their work, and their work being valued. These are four women authors (Mary Shelley, Hannah Crafts, Louisa May Allcott, and Bernardine Evaristo) who have fought to keep their copyright, to be attributed as the author, and who have experienced gender and racial discrimination in having their voices heard equally. Copyright law plays a role in these stories, particularly for Mary Shelley and Louisa May Allcott.



In working with the illustrator,⁴⁷ I had to reflect on how I portrayed their experiences. The back cover of the zine is a beautiful illustration of a woman surrounded by ghostly spectres/ unseen figures, and one of them has swiped a spectral hand

⁴⁶ Melanie Stockton-Brown and Amy Tatum, 2021. *FrankenZine: Voice, Copyright, and Women Authors*. Available at: <https://eprints.bournemouth.ac.uk/35668/1/FrankenZine.pdf>

⁴⁷ Illustrations in this zine created by Alexandra Guglielmazzi, and her permission must be sought for any reuse. Alexandra's Instagram: [day_of_december](#).

across her mouth: silencing her. This illustration was one I wanted to include to convey the silencing of woman, and of woman of colour especially.

In the illustration on the front cover of the zine, this depicts a woman with sparks coming from her eyes, holding a man's face mask in front of her. This was designed specifically to convey attitudes towards woman's authorship, and doubts as to the creativity and skillset of women as authors. For instance, there were (and remain) some doubts that Mary Shelley wrote *Frankenstein*, given that she was a young woman at the time. These illustrations echo the visual use of ghosts and spectres when dealing with copyright law and authorship, or "voice". It is interesting to see that I chose to use visual imagery that other comics had also decided upon to convey this, especially in the context of women authors.



*Finding the Lost Films: Out-of-Commerce Works in the Archive*⁴⁸ is a long-form zine aimed at film archives, policymakers, and cultural heritage institutions. It provides guidance and suggestions for implementation on making use of out-of-commerce works within archival collections, following recent EU copyright reform in the EU's Copyright in the Digital Single Market Directive 2019.

I was conscious firstly of portraying people within the zine in human form, as this research interviewed a number of people working in film archives; and thus there

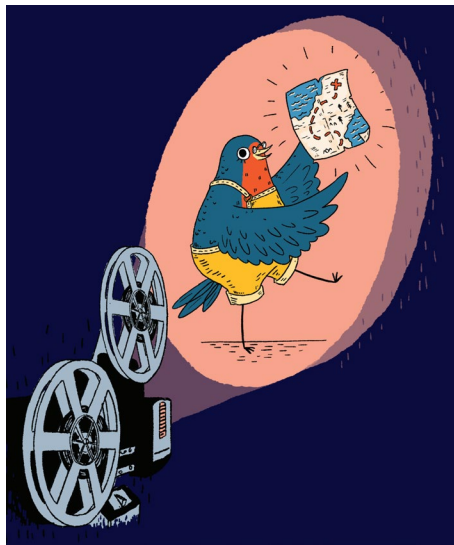
⁴⁸ Melanie Stockton-Brown, 2021. *Finding the Lost Films: Out-of-Commerce Works in the Archive*. Available at: <<https://eprints.bournemouth.ac.uk/35905/1/Finding%20the%20Lost%20Films%20Zine.pdf>>

was a concern that accurate aesthetic portrayals could undermine the anonymity of the participants, and any other representations would poorly portray the diversity of people working within film archives.⁴⁹ For this reason, I decided to use anthropomorphic bird characters throughout the zine, and note that:

Robyn is the film archivist in this zine, and they also happen to be a (rather well-dressed) robin. This is for two reasons: our representations matter; and what robins symbolise. How we portray people in illustrations matters, as this can lead to bias and stereotyping of characteristics and communities of people...

Robin birds symbolise new beginnings, new growth, good luck, hope, renewal and good things to come. It is our hope that the new copyright law within the EU can be a new beginning for film archives, in widening access to out-of-commerce works.

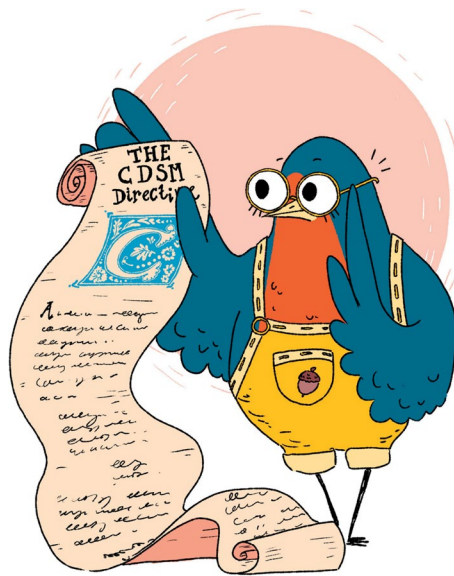
In this zine, the out-of-commerce copyright works that are stuck within the film archives due to the risk of copyright infringement are aesthetically portrayed as treasure to be found on a pirate's map. This visual depiction conveys ideas that we have a "treasure chest" of cultural heritage, but that copyright law's regulation has somehow hidden this treasure from us, and we must find it.



The new EU Directive is aesthetically portrayed as a long parchment scroll with an ornate "C" lettering for copyright law. The character, Robyn, is wearing glasses that make their eyes seem to bulge as they look at this long scroll, with text this is illegible. This was to convey the feelings many of the participants have towards

⁴⁹ Illustrations in this zine created by Hana Berggren, and her permission must be sought for any reuse. Her website: <https://www.hanaberggren.com/shop>

copyright law: that it is long and complex to decipher, and is often written in archaic language. Readers will take from this image that copyright law is viewed as difficult to understand, long, out-dated, and scholarly.



*Crop-Circles: A Copyright Regime of Practices within Film Archives*⁵⁰ is a zine about the varying approaches to copyright displayed in film archives, from which I formulated a copyright regime of archival practices theory. Copyright practices are portrayed as crop circles, which visually conveys the various aspects of material things, skills, and discourses that make up copyright practices. The overlapping circles of a crop circle work well for this, as the shapes create lots of Venn-diagram spaces to demonstrate overlap. In this sense, it can be read that copyright law, or perhaps law more widely, is an alien force—it is not like other things here on Earth.

The rationale behind choosing a crop circle to portray the copyright regime of archival practices theory that I had created following my doctoral research analysis, was twofold: that I have always aesthetically viewed crop circles and the © copyright symbol as looking similar, particularly in the curves and circles round in both graphic representations; and secondly, that crop circles are deliberately imprinted upon the ground/ field crop in which they are placed, and this has a strong resonance with the way in which many people experience copyright law. Whether regarded as alien intervention or deliberate human creation, crop circles are viewed with a sense of wonder, of scepticism, and of something supernatural or not naturally occurring—and all of these emotions are often attached to copyright law also.

⁵⁰ Melanie Stockton-Brown, 2021. *Crop-Circles: A Copyright Regime of Practices within Film Archives*. Available at: <<https://eprints.bournemouth.ac.uk/36597/1/Crop-circles%20Copyright%20Zine%20Melanie%20StocktonBrown.pdf>>

In the zines I have created, I have been conscious to accurately portray how people experience copyright law. I have utilised visual imagery of ghosts/ spectres, aliens and crop circles, birds and animals, and also visually related copyright to historical/ archaic documents, including treasure maps and long scrolls of parchment.

6 Conclusion

Graphic novels, comics, and zines provide an accessible and creative medium in which to offer alternative legal discourses. These discourses can reflect how people perceive the law, how they have experienced it, how they think the law should be, and even radically different visions of how law could operate, including the extremes of its consequences.

Both my own research dissemination via visual zines, comics, and films—and the analysis here of how copyright is portrayed aesthetically in the comics discussed above, demonstrate that there are multiple legal discourses about copyright law and “plagiarism”. Of these discourses, it is evident that many of them are negative, or aesthetically represent copyright as oppressive. We have seen copyright portrayed as a ghost, as a monstrous cyclops, as a robot, backed by law-bots, seeking payment. We have seen the nebulous, cosmic depiction of the public domain. We have seen narratives of warfare, of mine fields, connected to people navigating fair use and the reuse of copyright works.

In my own zines and aesthetic portrayals of copyright law, I have depicted it as a crop-cycle, created by aliens; as ghosts or spectres; and as something to be weighed and balanced. We have seen that copyright law and the ghost have a long history, and that notions of the supernatural and of divine beings are still interwoven with ideas of authorship and creativity, and therefore subsequently interact with copyright law. These aesthetic depictions give copyright law, which is intangible, a physical form; and it is through this physical form that it conveys its power to readers and viewers.

This article has not set out to determine that certain visual aesthetic portrayals are “correct” or “better”, but rather to explore how legal discourses and narratives about copyright law are circulated through the comics medium. These visual depictions hold considerable weight, and it is striking to see similar narratives used across a range of comics works, with different intended audiences. What is clear is that the visual depiction of copyright law enables a greater ability to convey the multiple copyright law discourses that can be felt at once, and also to highlight that some of these discourses are contradictory to one another.

Much more research can be done in this area, and I will continue to seek out comics, graphic novels and zines that convey copyright law aesthetically. From the research discussed in this article, it seems that visual depictions of copyright also allow for caricature and satire; to inflate copyright to literally monstrous or epic proportions in order to criticise it, and to demonstrate the problem areas that continue to haunt copyright law.

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