

6. World-Building Logics and Copyright

The Dark Knight and the Great Detective

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Abstract

Derek Johnson says that the term franchise has become “cultural shorthand for understanding the expansion of cultural production across different media and industry sectors”. From this perspective, it makes sense to speak of a Holmes franchise, since texts featuring the character appear across all media and across all industry sectors. However, this franchise differs from others such as Star Wars or Harry Potter because it lacks a central and coordinating holder of the intellectual property. My contribution will explore the implications of Holmes’ copyright status for the production, circulation, and reception of Holmes texts in the early 21st century. I will argue that the lack of a guiding corporate hand results in extremely divergent representations of the storyworld and character across different media platforms.

Keywords: Narrative, Copyright, Batman, Sherlock Holmes, Fictional worlds

Estate Of “Sherlock Holmes” Author Loses Case Seeking To Stop Others’ Use Of Character Fan-fictioners, slash-fictioners, pulp-o-philes, rationalists, positivists, Victorians, colonials, imperials, Freudians, Londoners, cokeheads, and crime solvers of the world — rejoice!
(Mora 2014)

These BuzzFeed headlines announce that, after protracted legal wrangling, Sherlock Holmes, the 127-year-old fictional detective, had been freed from copyright constraints. From the initiation of plaintiff Leslie Klinger’s

motion for summary judgement against the Conan Doyle Estate in a United States District Court in February 2013 to the United States Supreme Court's refusal to consider the case in November 2014, leading news outlets, including *The New York Times*, *The Washington Post*, *The Los Angeles Times*, *The Guardian*, *The Independent*, and the BBC, covered the copyright dispute. The character's global ubiquity and popularity motivated this coverage, but so did the dispute's potential implications for the copyright status of other serialized fictional characters. Some saw the plaintiff's success in the case as a broader victory for those maintaining that endlessly extended and rigorously enforced copyright stifles creativity.¹ As Holmes fan fiction-ers and slash fiction-ers rejoiced, so did critics hoping to reform the current US intellectual property regime and fans hoping to free other fictional characters from their legal shackles. But the Holmes copyright case also serves as a forceful reminder to academics that the beloved fictional worlds we study rest upon the legal and business practices that create, sustain, and protect them.

The *ab initio* legal practice is the state's granting of the exclusive ownership of intellectual property (IP) to individuals or corporations; IP consists of copyright, trademark, and patents. The last has no pertinence to fictional worlds. The first two can both be deployed to maintain the exclusive ownership of fictional worlds; copyright protects an entire work for a specified period of time while trademark, which never expires, can protect specific elements of a work such as characters. This chapter focuses on the former since, despite its eventual expiration, it is generally seen as the stronger means of protection (Rosenblatt 2015, 565). IP enables the business practices of franchising and branding that build many popular fictional worlds from *Star Trek* to *Lord of the Rings* to *Harry Potter*. Derek Johnson offers a succinct definition of franchising as "the continuous production of culture from intellectual property resources shared across multiple sites of production" (Johnson 2013, 4). The corporations owning the IP use branding to link these multiple sites of production in the public mind. As Claire Parody says, "the production of an entertainment franchise is coterminously the development and management of a fictional brand' that 'involves the creation of icons, names, concepts, and similar objects of intellectual property[...]" (Parody 2011, 214).

Fictional worlds built around IP are deemed proprietary; some fictional worlds are non-proprietary, or, in other words, are in the public domain (PD). PD is a contested term; I use it here in its narrowest definition, which Elizabeth L. Rosenblatt says "includes only information outside the scope of formal intellectual property protection: [...] [such as] works

of authorship too old to be [...] copyrighted [...]" (2015, 570). PD also refers to works, such as Sherlock Holmes, in which copyright has lapsed. Since the inception of the industrialized production of popular culture in the 19th century, non-proprietary fictional worlds (centered around, for example, folk heroes such as Robin Hood and religious mythologies such as the Norse gods) have expanded in the PD where Sherlock Holmes now joins them. These PD fictional worlds both resemble and differ from proprietary fictional worlds since the presence or absence of a central coordinating rights holder inflects world building. Narrative logics also inflect world building. Since fictional worlds tell stories, they must be understood not only from a legal and business perspective but also from the perspective of narrative theory. Both proprietary and PD fictional worlds depend upon narrative logics to link the various elements of the world together; I argue that fictional worlds can be linked by storyworld, character, or author.

This chapter first discusses the three narrative logics, then constructs a table displaying the intersection of these logics with different copyright conditions. Finally, it analyses two case studies of character-centered fictional worlds, Batman and Sherlock Holmes, to illustrate how copyright accounts for some of the differences between two similar fictional worlds and characters.

World-Building Logics

In discussing transmedia storytelling, Henry Jenkins observes that

narrative represents simply one kind of transmedia logic which is shaping the contemporary entertainment realm. We might identify a range of others – including branding, spectacle, performance, games, perhaps others – which can operate either independently or may be combined within any given entertainment experience. (Jenkins 2009)

As distinct from Jenkins, I am concerned with narrative and not with the other logics that he enumerates. I am also concerned with world building and not with transmedia storytelling; the former is a necessary condition for but not coterminous with the latter. While we tend to associate world building with multiple texts across multiple media and while my two case studies constitute such expanded fictional worlds, all fictions—of whatever length and in whichever medium—must have

the basic elements of narrative; these include a possible world distinct to some extent from contemporary or historical “reality.” Marie-Laure Ryan says that a narrative text “brings a world to mind (setting) and populates it with intelligent agents (characters). These agents participate in actions and happenings (events, plot), which cause global changes to the narrative world” (Ryan 2004, 337). Ryan identifies two of the three world-building logics listed above, setting, which I call storyworld, and character. Fictional worlds exceeding the confines of one text and sometimes of one medium can be narratively linked by storyworld, character, and author, all of which serve as signposts guiding the consumer from one installment to the next. With many expanded fictional worlds one logic dominates, while the other two play secondary roles: for example, the *Star Trek* and *Lord of the Rings* worlds are linked by storyworld; the Batman and Sherlock Holmes worlds by character; and *Great Expectations* and *Bleak House* by author.

1) Storyworld

Ryan says that an expanded storyworld encompassing multiple texts “must possess invariant features in order to be recognized as the common frame of reference of diverse documents” (Ryan 2013, 383). These invariant features consist of: “1. An inventory of existents comprising (a) species, objects, and social institutions [...] and (b) the cast of individual characters [...] 2. A folklore relating to the existents 3. A space with certain topographic features 4. A set of natural laws 5. A set of social rules and values” (Ryan 2013, 364). There are also variant features: “6. Physical events that bring changes to the existents 7. Mental events that give significance to the physical events” (Ryan 2013, 364). These features serve to specify any expanded storyworld: for example, with regard to social institutions, *Star Trek* has Star Fleet Academy while Harry Potter has Hogwarts; with regard to natural laws, the former has advanced technologies while the latter has magic. The more detailed the inventory of invariant and variant features, the greater the capacity for expansion; as Parody says, world building involves creating “narrative spaces vast in their scope and minute in their detail, wholesale envisionings of millennia of fictional history, and continents of imaginary geography” (Parody 2011, 214). But no matter how expansive the storyworld, the multiple texts composing it are linked together to a greater or lesser extent by the recurrence of the invariant features and the recollection of the variant features. The presence, absence, or modification of the invariant/variant features in individual instantiations of the storyworld signify

the strength or weakness of the links and can lead to debates concerning narrative coherence, consistency, and canonicity.

2) Character

While all fictional worlds must have characters, some expanded fictional worlds become identified primarily with a chief protagonist, such as Batman or Sherlock Holmes, who recurs in all narrative installments. Character is a more elusive concept than storyworld; indeed, it is one of the most elusive concepts in narrative theory: characters are constructed by textual semiotic codes but achieve an almost independent existence as a sentient being in a reader or viewer's mind. Says Seymour Chatman: "Too often do we recall fictional characters vividly, yet not a single word of the text in which they came alive; indeed, I venture to say that readers generally remember characters that way" (Chatman 1978, 118-119). However, the perplexing dual nature of fictional characters does not absolve us from trying to identify the semiotic codes which construct them and from which the reader or viewer's mind assembles them. I have previously argued that television characters are constituted from the following components: 1) psychological traits/habitual behaviours; 2) physical traits/appearance; 3) speech patterns; 4) biography; 5) interactions with other characters; and 6) environment, which Ryan refers to as setting.² Although conceived with regard to television, these components serve to identify characters in texts of any length or in any medium, although a short story will provide fewer details than a long-form television series and different media will use different semiotic codes to construct the six components and, thus, the character. As is the case with storyworlds, the presence, absence, or modification of the six components signifies the strength or weakness of the links between individual installments and can lead to debates concerning narrative coherence, consistency, and canonicity.

3) Author

While all fictional worlds require storyworlds and characters, not all fictional worlds require authors, at least in the sense of a designated individual who created the first instantiation of the world. As Thomas Leitch points out with respect to Robin Hood, "instead of one source for the story of the outlaw's adventures, there are a hundred sources, none of which constitutes a definitive urtext against which derivative

works can be measured” (Leitch 2008, 23). The same holds true for other characters from folklore and myth such as King Arthur and Thor. In many cases, however, a designated individual serves to link together the various narrative installments of a fictional world. According to Michel Foucault, an author’s name “is functional in that it serves as a means of classification. A name can group together a number of texts and thus differentiate them from others” (Foucault 1977, 123). Matthew Freeman proposes that

this notion of classification, which works to group together a number of texts and differentiate them from others, [can] be taken one step further and [...] broken down into two standards of authorship, or rather two ‘author-functions’ [...] The first standard of authorship concerns the Foucauldian notion that the mere presence of an author’s name on a media text [...] can point audiences across multiple media to other texts that constitute a [fictional world]. We can call this the *market author-function*. The second standard of authorship concerns the way that an author can impose and maintain the description of what does and does not constitute a particular fictional [world][...]. We can call this the *textual author-function*. (Freeman 2015, 71)

I further propose that the textual author function can, in some instances, serve an additional purpose to identify a fictional world comprised of all an author’s works, even when those works are not linked as individual installments of a larger and relatively coherent narrative composed of invariant/variant storyworld features. Dudley Andrew says that

the world of Dickens [...] is larger than the particular rendition of it which we call *Oliver Twist*. It includes versions we call *David Copperfield* and *The Pickwick Papers* too. In fact, it is larger than the sum of novels Dickens wrote, existing as a set of paradigms, a global source from which he could draw” (Andrew 1984, 39).

Others can also draw from this global source, as attested to by the adjective “Dickensian” and the theme park Dickens World, in Chatham, Kent, which takes visitors “back in time to the Victorian England that Charles Dickens knew and wrote about in his novels and short stories”.³ Although there are neither an adjectival form nor an equivalent real-world theme park for Jane Austen, a fictional Austenland appears in the novel of that name (Hale 2007) and its film adaptation. However, while storyworld and

character are textual attributes of an expanded fictional world, authorship is a paratextual attribute. But, like storyworld and character, it signifies a specific fictional world, in this case, one composed of characters, settings, events, and style seen as characteristic of a particular author's oeuvre. This can also hold true for corporate authors as in the case of Disney's animated features; the company's franchising and branding practices strengthen the textual links forged by a relative degree of consistency with regard to characters, settings, events, and visual style.

World -Building Logics and Copyright

Storyworld, character, and author underpin fictional world expansion, serving as the primary or secondary narrative logics linking individual installments. But the presence or absence of a rights holder also structures world building. The construction and expansion of fictional worlds needs to be understood with reference to both world-building logics and copyright. These rights can be held by a corporate author, by an individual author, or by no one.

- 1) Corporate author: The urtext(s) originated within a corporation that held the rights to its employees' creations. The copyright takes effect from the date of first publication and expires after a specified period of time.
- 2) Individual author: The urtext(s) were copyrighted by an author who may pass them on as part of her estate. Copyright expires at a specified period of time from the author's death.
- 3) Public domain (no rights holder): The urtext(s) originated before intellectual property laws or have entered the public domain. Authors of works based on PD fictional worlds can acquire copyright to their new creations.

In the first two instances, a rights holder can exercise a greater or lesser degree of control over the expansion of a fictional world; some corporate and individual authors actively exploit world-building logics to forge the strong links that lead to narrative coherence and consistency while others do not. In the case of PD fictional worlds, world-building logics alone determine the strength of the links and thus the degree of narrative coherence and consistency.

The following table cross-tabulates world-building logics with copyright status and provides an illustrative example for each resultant cell.

Copyright status	A) storyworld	B) character	C) author
1) Individual author	1A) <i>Lord of the Rings</i>	1B) James Bond	1C) Edgar Rice Burroughs (disputed)
2) Corporate author	2A) <i>Star Trek</i>	2B) Batman	2C) Franchise branding (e.g. Disney)
3) Public domain from inception	3A) Asgaard (Norse mythology)	3B) Robin Hood	3C) Shakespeare
4) Public domain as result of lapsed copyright	4A) H. P. Lovecraft's Cthulhu Mythos (disputed)	4B) Sherlock Holmes	4C) Dickens

6.1 World Building Logics

The table raises the question of which combinations of world-building logics and copyright conditions result in relatively coherent and consistent worlds and which result in relatively less coherent and consistent worlds. In other words, which combinations build the strongest links between individual installments of an expanded fictional world and result in the greatest degree of narrative coherence and consistency? And by what precise criteria do we measure coherence and consistency? Unfortunately, word limitations prohibit expansion upon each of the table's twelve cells to address these issues; I would hope that my fellow scholars may be inspired to provide answers using my examples or other appropriate case studies.

However, I can make three general observations:

- 1) Proprietary fictional worlds such as *Star Trek* and Batman expand like houses, through extensions legally authorized and coordinated by the IP owners, although the result is more frequently Gaudi than Gehry. As I explain in the Batman case study, industrial practices can result in a deliberate degree of incoherence and inconsistency.⁴
- 2) Non-proprietary fictional worlds such as Robin Hood expand like coral reefs through the seemingly spontaneous addition of non-authorized and uncoordinated accretions produced by non-affiliated individuals and corporations.
- 3) Regardless of copyright status, author-centered worlds are almost certainly more diverse than those linked by the other two logics, given their dependence upon a culturally agreed consensus as to the author's distinctive settings, characters, events, and style. Given the complexities of character construction, character-centered worlds are probably more diverse than storyworld-centered worlds. In all

three cases however, a proprietary fictional world tends toward more coherence and consistency than a non-proprietary fictional world governed by the same world-building logic.

The following section expands upon two of the table's cells: 2B) the corporately-authored, character-centered fictional world of Batman and 4B) the PD, character-centered world of Sherlock Holmes. However, for most of his 127 years, Holmes has occupied cell 1B, which means that the comparison is actually between a corporately authored, character-centered world with the IP held by successive corporations and an individually-authored, character-centered world with the IP held by owners whose relative indifference to narrative coherence and consistency and fickle execution of their rights led to coral reef-like rather than house-like expansion.

The Dark Knight and the Great Detective

Batman first appeared in 1939 in *Detective Comics* #27, a comic book owned by National Publications, which acquired the rights to the character from one of its creators, artist Bob Kane (the other, uncredited creator was ghost-writer Bill Finger). Today, as a result of the many changes of name and of ownership in the intervening decades, DC Comics owns the copyright; it has the judicial standing to sue for infringement and can license external parties to produce derivative works. Since DC Comics is a subsidiary of Time Warner, the parent company can exploit the copyright across the multiple media platforms of its various divisions, subsequently acquiring the copyright to derivative works such as the feature film series. Time Warner has the judicial standing to sue for copyright infringement on these derivative works and can license external parties to produce further derivative works based upon them, such as the television program *Gotham*. Another division of the Time Warner company, Warner Bros., produces the Batman feature films.

Sherlock Holmes first appeared in 1887 in the novel *A Study in Scarlet*, authored by Arthur Conan Doyle and sold to *Beeton's Christmas Annual*. Conan Doyle wrote three more Holmes novels and 56 short stories, the final one appearing in 1927. Upon Conan Doyle's death in 1930, the IP passed first to his older son Denis, then to his younger son Adrian, and finally to his daughter Jean. The UK copyright expired 50 years after the author's death in 1980. The US copyright had briefly been acquired by someone outside the family, but Dame Jean Conan Doyle, exercising the rights afforded her

by US copyright laws, re-acquired them. A year after Dame Jean's death in 1997, with the Conan Doyle Estate (CDE) controlled by nine indirect descendants of the author, the US Copyright Term Extension Act of 1998 extended copyright for individually authored works published prior to 1 January 1978 by 20 years to a total of 95 years from their publication. As a result, the CDE's copyright in the last of the ten Sherlock Holmes stories currently under copyright expires in January 2023. But, as a result of the successful complaint against the CDE mentioned at this chapter's outset, the four novels, the remaining 44 short stories, and, thus, the character became PD—although technically only 87 per cent of him, since the character elements introduced in the few remaining stories still under copyright themselves remain under copyright. For example, anyone producing a text featuring Watson's second wife must seek permission from the CDE until 2023.⁵

Conan Doyle himself viewed his immortal creation primarily as a money-spinner, believing that his detective was taking his "mind from better things", his "historical dramas and military adventures" (Pittard 2007, 13). He was thus relatively indifferent to the "fidelity" of Holmes adaptations. When American actor-manager William Gillette, who produced the first Holmes play, cabled Conan Doyle inquiring "May I marry Holmes?"; Conan Doyle cabled back, "You may marry him, murder him, or do anything you like to him" (Eyles 1986, 34). The author exercised no active control over the screen adaptations produced during his lifetime, such as the 1929 *The Return of Sherlock Holmes* (Basil Dean) in which the lead character (Clive Brook) has an "in-name-only resemblance to Holmes" (Barnes 2011, 150). His descendants exhibited an even greater desire to exploit the property and an even greater indifference to "fidelity" to their father's work. Conan Doyle biographer Andrew Lycett says that Denis and Adrian were "spendthrift playboys" who viewed their father's estate as a "milch-cow" (Lycett, quoted in Field 2007, 102). Denis agreed that, in making its 1940s film series, Universal Films could "adapt and change [the Doyle] stories to the fullest extent including the right to use the fullest latitude in changing and adapting such stories, their characters, themes and incidents, to translate, rearrange, modernize, add to or take from their literary and/or dramatic material" (Field 2007, 108). Richard Hewett chronicles the ways in which Adrian "imposed exacting requirements" upon the BBC's 1960s adaptations while permitting "the musical *Baker Street* and the Henry Lester-produced film *A Study in Terror* (1966)" to take "substantial liberties with his father's characters" (Hewett 2015, 200). The CDE has displayed a similar lack of interest in "fidelity", licensing adaptations as diverse as the Warner Bros. feature

films; *Sherlock Holmes*; and *Sherlock Holmes: Game of Shadows* directed by Guy Ritchie; the BBC's *Sherlock*; and CBS's *Elementary*.

Throughout Batman's long history of adaptation to other media, from the 1943 film serial and newspaper comic strip to the blockbuster Warner Bros. films, the character has been the property of corporations motivated to protect his long-term profitability even as they exploit the copyright across multiple platforms. Throughout Holmes' long history of adaptation to other media, from the 1899 Gillette play to the blockbuster Warner Bros. films, the character has been the property of individuals, including the author, whose desire for short-term profitability frequently triumphed any yearning toward coherency and consistency in exploiting the copyright across multiple platforms. I hypothesize that these differences in copyright status account for the dissimilar expansion of the two character's fictional worlds since, when reduced to their essential elements, Batman and Holmes appear quite similar.

I argued above that fictional characters are composed of six components: 1) psychological traits/habitual behaviours; 2) physical traits/appearance; 3) speech patterns; 4) biography; 5) interactions with other characters; and 6) environment. With multiple versions of a character in synchronic and diachronic circulation, these components constitute what Ryan refers to as a "common frame of reference of diverse documents" that can maintain consistency across an expanded fictional world. What is the common frame of reference required to construct characters recognizable as Batman and Sherlock Holmes? 76 years on from his origin, Batman remains a character who uses his superb physical abilities (2) and deductive capacities (1) to obsessively fight crime (1) in response to the brutal murder of his parents when he was a child (4). He operates primarily in Gotham City (6), has a recurrent cast of friends, foes, and the police (5) and dresses in an iconographically specific costume of cape, cowl, and Bat-logo (2). 127 years on from his origin, Sherlock Holmes remains a character who uses his superb deductive abilities and occasionally his superb physical abilities to obsessively solve puzzles in order to stave off boredom (1). He operates primarily in large urban centers (usually London, but in one instance New York) (5), has a recurrent cast of friends, foes, and the police and, in some versions, dresses in an iconographically specific costume of deerstalker and Inverness cloak (2).⁶

Both characters also have a very minimal frame of reference that requires the presence of none of the six textual components. While all characters may be said to "escape" their texts by being constituted as sentient individuals in readers' and viewers' minds, some characters,

frequently those at the center of expanded fictional worlds, enact an even greater escape by becoming pervasive cultural icons, known to those who have never encountered a single text in which they appear. In such cases, characters can be identified solely by name; a reference to Sherlock Holmes is sufficient to invoke a great detective and one to Batman a vigilante crime fighter. Sometimes, visual signifiers alone, or what might be termed the character's iconography, constitute sufficient identification; Batman can be reduced to the instantly recognizable Bat signal and Holmes to the equally recognizable deerstalker, magnifying glass, and pipe. These reduced versions of the characters gesture toward the six character components for those who have further knowledge of the characters' fictional worlds, but do not specifically incorporate them. The Bat-logo signals Batman and deerstalker, magnifying glass, and pipe signal Holmes even to someone whose knowledge derives not from any specific textual instantiation but from the characters' cultural ubiquity. Given the minimal nature of their essential components and their further reduction to visual signifiers, the two characters have the potential for almost infinite mutability. William Uricchio and I have argued that Batman is a "floating signifier"; the same is true of Holmes (Pearson and Uricchio 1991). Both have floated free of their original creator(s) and original medium to migrate across media platforms and around the globe, with resultant degrees of divergence and inconsistency in the myriad textual installments that collectively comprise their fictional worlds. But Batman's owners have imposed a relatively greater degree of coherence and consistency upon his fictional world than Holmes' owners have imposed upon his.

For Batman's first half-century, corporate control ensured that the character's multiple incarnations were consecutive and consensual; as the character transformed over time new versions replaced the older versions. Former DC Comics President and Publisher Paul Levitz traces these transformations: the pulp, noir-like original; the child-friendly "lighter in tone" Batman of the 1940s and 1950s; the science-fictional Batman of the 1950s and early 1960s; the 1960s "New Look" Batman of the comics and camp Batman of the ABC television series; the emergence of the Dark Knight Detective in the 1970s comics; and the definitive version of the Dark Knight in Frank Miller's 1986 graphic novel *The Dark Knight Returns* (Levitz 2015). The first Batman feature film, Tim Burton's *Batman* presented this version to a larger public.

In the 1980s, corporate strategy changed from consecutive and consensual transformation to the concurrent exploitation of multiple and divergent Batmen across multiple platforms. Writing in 1990, Uricchio

and I detailed the divergent Batmen co-existing with Burton's cinematic interpretation, from cinematic paratexts such as Prince's Bat dance music video to graphic novels such as Alan Moore's *The Killing Joke*, and concluded that

This moment in the last decade of the twentieth century [...] represents the most divergent set of refractions of the Batman character' as 'newly created Batmen, existing simultaneously with the older Batmen of [...] the comic reprints and back issues, all struggled for recognition and a share of the market (Pearson and Uricchio 1991, 207).

We speculated that such fragmentation might threaten the character's continued viability—in other words, that his corporate owners had adopted a risky strategy by not forging strong narrative links across the ever-expanding fictional world.

Writing several years later, Henry Jenkins offered a different interpretation of this crucial moment in the character's history: "Retrospectively, we can see Pearson and Uricchio as describing a moment of transition from continuity to multiplicity" (Jenkins 2009). Jenkins defined multiplicity as "a shift away from focusing primarily on building up continuity within the fictional universe and towards the development of multiple and contradictory versions of the same characters functioning as it were in parallel universes [...]" (Jenkins 2007). Today, multiplicity is the comic industry's prime directive, as the two superpowers, DC and Marvel, frequently reboot their universes and re-configure their heroes in their ongoing effort to retain old readers and attract new ones as well as to extend their valuable IP across multiple platforms. Multiplicity offers consumers new pleasures, as Parody points out.

Re-visionings can be intelligible to franchise consumers as simply facets of an overarching entertainment experience, part of rather than in opposition to engaging with a beloved property. Shifting between 'canons' and narrative realities [...] are often a rewarding form of mastery over a franchise text, not a source of tension [...]" (Parody 2011, 216).

Nonetheless, both DC and Warner Bros. police multiplicity through pronouncements concerning canonicity and the relationships between narrative realities. For example, as the multiple Batmen of 1989 offered readers and viewers divergent visions of the character's past, present, and future, Dennis O'Neil, the Batman comics editor, stated:

- 1) By the way, the BATMAN movie (as well as the BATMAN MOVIE ADAPTATION), IS NOT a part of Batman continuity [...].
- 2) [...] the tale told in BATMAN: THE KILLING JOKE is NOT the definitive origin of the Joker. It's simply one of many POSSIBLE origins [...].
- 3) Since it is set about 20 years in the future, BATMAN: THE DARK KNIGHT RETURNS is also NOT considered to be a part of normal continuity. It is a POSSIBLE future for Batman, one which may or may not happen. We're NOT saying that it couldn't happen, but it would be a shame to limit the Batman's future to this one story (O'Neil 1989).

This disavowal of the Warner Bros. film appears even in the comic book adaptation written by O'Neil and published by DC. The initial splash page shows a strip of film, bearing key frames drawn from the film, superimposed over a cinema audience. In the first dialogue balloon on the page, an audience member says "It's just a movie, for Heaven's sake" (O'Neil 1989). The back cover also features a filmstrip design with further scenes from the movie. O'Neil said that he intended these film strips to bracket the adaptation and distinguish it from DC's continuity (Pearson and Uricchio 1991, 215)

26 years later, DC personnel continue the attempt to police multiplicity, explicitly distinguishing between the large- and small-screen elements of their cinematic universe. DC Comics Chief Creative Officer Geoff Johns has made it clear that neither Superman nor Batman, currently appearing in feature films, will be seen in the television programs, *Arrow* or *The Flash*. Johns said, "It's a separate universe than film so that the filmmakers can tell the story that's best for film, while we explore something different in a different corner of the DC universe. We will not be integrating the film and television universes" (Eisenberg n.d.). *Gotham*, the television program featuring an adolescent Bruce Wayne, which DC licensed the Fox Broadcasting Company to produce, is also separate from the feature film continuity. Kevin Reilly, former chairman of Entertainment for the Fox Broadcasting Company, said that, "Warner Brothers manages the entire franchise and its one of their top global franchises of all. So there will be an awareness of both and we'll have to coordinate when we're in the market place, but the productions are not piggy-backing off one another" (Mac 2014).

Holmes became synchronically divergent even during Conan Doyle's lifetime, with multiple versions of the character in circulation from the start of the 20th century. Holmes' widespread popularity began with the publication of Conan Doyle's short stories in the UK and US editions of the *Strand Magazine* in 1891. These were illustrated by Sidney Paget, who based his depiction of Holmes upon his brother Walter. But in 1903, the

Holmes stories began appearing in *Collier's* magazine in the US. These were illustrated by Frederic Dorr Steele, who based his depiction of Holmes upon actor William Gillette, who first appeared in the role in 1899. While the Paget illustrations continued to represent Holmes to UK readers, the Steele illustrations became the common reference point for American readers. A similar multiplicity manifested in cinematic adaptations. Four different actors featured in the title role in the Holmes films produced by the Danish Nordisk company between 1908 and 1911, while, at the same time, German and French companies produced films starring yet different actors as the Great Detective. 1914 saw the release of both British and American versions of *A Study in Scarlet*, the former starring James Braughton and the latter Francis Ford. In the pre-World War I period, the Danish, German, French, US, and UK film industries all distributed their products on both sides of the Atlantic, making it probable that audiences in these countries and many others would have seen Holmes embodied by many different actors of many different nationalities in divergent adaptations of Conan Doyle's character.

Just as early 20th century audiences experienced multiple and divergent screen versions of the character, so do early 21st century audiences. The 2013 Russian television series, set in 19th century London, depicts Holmes as a young man in his twenties teamed with a Watson several years older. *Sherlock* updates the character to 21st century London and fits him to the BBC's branding strategy of 'original BBC drama'. *Elementary* updates the character to 21st century New York City, teams him with a female Watson, and fits him to CBS's procedural dramas branding strategy. The Warner Bros. feature films transform the Great Detective into an action hero at the center of mega-blockbusters. *Mr. Holmes*, starring Ian McKellan, depicts the detective as a 93 year-old suffering from memory loss. These adaptations selectively emphasize and frequently modify different aspects of the character's six constituent elements, while one almost wholly abjures them. *Elementary* strays so far from the urtext that *Sherlock* producer show-runner Stephen Moffat said of it: "They've got three big changes: it's Sherlock Holmes in America, it's Sherlock Holmes updated and it's Sherlock Holmes with a female Watson. I wonder if he's Sherlock Holmes in any sense other than he's called Sherlock Holmes?" (Jeffery 2012). But, as I argued above, the character can indeed be reduced to such a minimal common frame of reference that his name alone suffices to ensure recognition; if a character is called Sherlock Holmes then he is Sherlock Holmes.

Holmes can be young, middle-aged, or old; live in the 19th, 20th, or 21st centuries; reside in London or New York or Sussex; be a recovering drug addict, a high functioning sociopath, or afflicted by Alzheimers; and be

played by Benedict Cumberbatch or Ian McKellan or Jonny Lee Miller or Igor Petrenko or Robert Downey, Jr. But, unlike Batman, no final authority polices Holmes' multiplicity. Those who have read the Conan Doyle canon may turn to it, but many have not; moreover, as argued above, the character has floated free of his urtext. No single individual or corporation has the perceived authority to make conclusive pronouncements concerning canonicity or the relationship of one narrative reality to another. However, occasionally a specific actor's interpretation may gain a form of canonical authority by emerging as the "definitive" Holmes for a generation; Basil Rathbone in the 1940s Universal Films, Jeremy Brett in the 1980s and 1990s Granada television series, and Benedict Cumberbatch in the 21st century BBC television series.

Such "canonized" versions of the character may subsequently influence future adaptors and adaptations. Steven Moffatt and Mark Gattis, his *Sherlock* co-creator, have often spoken of their admiration for previous screen Holmes. Said Gattis, "Basil Rathbone was my first and I love those films the most and I love the Jeremy Brett series and lots of other versions" (Lewis 2014). The astute viewer may well spot in *Sherlock* as many references to previous screen adaptations as to the Conan Doyle canon. The dense accretion resulting from more than a century of such intertextuality leads Leitch to conclude that "The Holmes adaptations [...] take as their primary referent not the particular story they are ostensibly adapting [...] but the franchise as a whole" (Leitch 2009, Kindle location 3023). In other words, as I have argued, they take as their primary referent not the individual elements of the fictional world, but the common frame of reference necessary to identify the character that serves to link these various elements together.

Conclusion

I have argued that fictional worlds are predicated both upon IP and upon world-building logics and used the Batman and Holmes case studies to illustrate how copyright accounts for some of the differences between the fictional worlds of two quite similar characters. In conclusion, I offer two caveats. First, while I have focused here on world-building logics' intersection with copyright, other factors such as country of origin and medium specificity can inflect the structure of both proprietary and PD fictional worlds. Many of the differences between *Sherlock* and *Elementary* can be accounted for by the context of their respective national broadcasting systems, while many of the differences between *Gotham* and the *Batman* feature

films can be accounted for by the different aesthetic and industrial practices of the two media.⁷ Second, I began this chapter by speaking of the Holmes copyright case as a victory for those who assert that endlessly extended and rigorously enforced copyright stifles creativity. However, this doesn't necessarily imply that proprietary worlds offer fewer creative opportunities to those who produce them or less satisfaction to those who consume them than PD worlds. Those who create Batman can be just as imaginative and ingenious as those who produce Holmes. As Johnson says, even "closed and proprietary industrial models" entail a "complex and negotiated status of creativity [...]" (Johnson 2013, 14). And their audiences certainly derive just as much pleasure and enjoyment from the Dark Knight's adventures as they do from the Great Detective's.

Notes

1. For arguments against current IP regimes see, for example: Benkler 2006; Jenkins, Ford, and Green 2013; Rosenblatt 2015.
2. For a fuller explanation of the construction of the televisual character see Pearson and Messenger Davies, 2014.
3. <http://www.dickensworld.co.uk>.
4. I am indebted to Matthew Freeman's thesis for the *House* metaphor.
5. For more on the Holmes copyright see Rosenblatt and Pearson 2015.
6. For more on the construction of the Batman character, see: Pearson and Uricchio. For more on the construction of the Holmes character, see: Leitch 2009 and Polasek 2015.
7. See: Pearson 2014.

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