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Authorship of fansubbed items and fan-to-fan piracy

Can fansubbers exert control over the products of their labour?

Abstract

From July to October 2015, one of the two largest fansubbing sites in Croatia, prijevodi-online.org, organized a strike against the unauthorized use of their subtitles by the second major fansubbing site, titlovi.com. The fansubbers claimed their files were being modified without their consent, their identification marks removed, and the files displayed on the rival site as authored by the other community. The owner of the rival domain was accused of incurring financial profit on their unpaid volunteer labour. As has been previously attested (Hemmungs Wirtén 2012; Yildiz 2017), such instances are not rare, and the issue of fan-to-fan piracy may require closer examination. Despite this, the literature on the subject is scant, possibly because the position of fansubbing is ambiguous regarding copyright and authorship issues. Tapping into the wider issue of copyright infringement, the rights of authors, translators and copyright holders, these types of situations suggest the development of a new kind of digital society, one in which the discourse regarding the personal rights of authors is retained, but the notion of who and how should exercise them is being redefined. The aim is to explore the practical causes and effects of the strike regarding the fansubbing scene in Croatia, while linking its theoretical framework to the tenets of the copyright law. The paper is partially based on a conference presentation held at the 2017 Congrès Mondial de Traductologie but has since been revised and expanded.

1 Introduction

As a concept, fan subtitles or fansubs are generally defined as fan-made derivative works created and distributed as user-generated content on the Internet (Busnello/Romanenko 2012: 8). The first fansubs originated in mid-1980s as fan-produced translations of Japanese anime shows otherwise unavailable to the Western audiences, but the practice has since expanded into a global social phenomenon to include all types of audio-visual materials in scores of different languages and dedicated online communities of fans who utilize free subtitling software to create their own translations of their favourite shows (Díaz Cintas/Muñoz Sánchez 2006: 37–38; Pérez-González 2006). Those subtitles are then disseminated via the Internet to all those who would like to download and use them to watch those films or shows. The subtitles may be available via individual websites of fansubbing groups or they may be uploaded to generalized websites serving as

repositories of fansubs, such as Addic7ed (n. d.). People who engage in fansubbing are mostly not trained and/or professional translators, but audio-visual enthusiasts who translate films and other types of audio-visual content as a form of hobby, to learn foreign languages, to express their need for social activism, to engage in a meaningful intellectual activity as a form of serious leisure or to satiate their curiosity with regard to the process of subtitling (see our previous research on fansubber motivations, Čemerin/Toth 2017: 230; cf. Lee 2011b: 1140–1141). Their audiences are all those who have access to the Internet, speak the languages of their subtitles and are willing to download them from relevant websites. In terms of outreach, individual fansubbing groups may exert profound influence on the tastes of their audiences and may enhance the promotion and digital visibility of the shows they translate (Jenkins 2006; Lee 2011a: 243; Denison 2011; Wurm 2014). Some authors even propose that fansubbing and its link to piracy may be perceived in terms of activism which reduces media inequality, enabling the wider dissemination of certain types of highly sought-after audiovisual products and thus conceptualizing fansubbing as piracy which defers to market principles (Condry 2010: 193–195).

While professional translators may become involved in fansubbing for a variety of personal reasons, fan subtitles are essentially made by fans of a certain type of programming for other fans using free online subtitling tools such as Subtitle Workshop (2013), Subtitle Edit (n. d.) or other similar software, and subsequently published freely online. This proliferation and expansion of amateur media content in the past few decades has been enabled by the advent and usage of the Internet (Lobato/Thomas/Hunter 2012: xiii), which thoroughly transformed the practice and reality of fansubbing, from a cumbersome process involving a chain of people working as procurers, translators, reviewers and disseminators of anime fansubs on VHS tapes and later DVDs, to a simple undertaking where a single individual can create, edit, subtitle and publish a subtitle file in a few steps easily performed on a personal computer (Díaz Cintas/Muñoz Sánchez 2006: 41). However, the very ease with which amateur producers of online content can publish and disseminate their work, often exhibiting very little control over the useful lives, usage and spreading of their authored materials, carries major implications for fansub authors (called *prosumers* by several researchers as a portmanteau of the words *consumer* and *producer* in order to emphasise their dual nature as both the creators of fansubbed content and its users, cf. for instance Pérez-González/Susam-Saraeva 2012; Pérez-González 2013) in terms of their moral rights and exerting possible copyright over their subtitle files. Fansubs are themselves usually unauthorized (that is to say, illegal) translations of copyrighted material, infringing both the reproduction and derivative work right (Hatcher 2005: 561) of original authors and copyright holders. International copyright law at the moment treats derivative works created without permission in the same way as copyright infringement (Busnello/Romanenko 2012: 11). Similar claims can be made for a number of legal jurisdictions within the European Union, including the Republic of Croatia, whose copyright law does not recognize fansubs as such, but protects authorized translations as original and independent derivative works.

As with copyright infringement related to other types of authored content, such as music recordings, the main aspect of legal protection provided in legislative documents is the protection against unauthorized and unlawful monetary gain by the infringers at the expense of the original authors and copyright holders.

However, for the majority of fansubbers, the main drive for translating copyrighted files without the authorization of copyright holders has never been monetary or other type of commercial gain, but rather the pursuit of entertainment and the sharing of otherwise unavailable audio-visual content, such as anime videos outside Japan or Hollywood films in markets where they have not been made available. Despite having been born in the communities of anime lovers, fansubbing as an art has long since outgrown them and nowadays all types of audiovisual content are fansubbed, involving linguistic transfers in a multitude of language combinations (Lee 2011b: 1137–1138).

The main feature of fansubbing is thus its non-profit character: fansubbers typically create fansubs without financial remuneration for their work or distribution (Hatcher 2005: 561). For this reason, fansub files frequently contain disclaimers such as “not for sale, rent or e-bay” (Leonard 2005: 9) and “cease distribution when [the anime series is] licensed” (Daniels 2008: 714; Lee 2011a: 248). As may be inferred from this, while fansubbers may engage in work that could be considered copyright infringement, followed by the possibility of legal consequences, they are very much aware of their limitations and the potential for legal action against them under anti-piracy legislation.¹ Besides, many fansubbing communities are self-managed and self-regulated despite the lack of specific state legislation pertaining to fansubbing as an activity or fansubbed files as works in their own right and exhibit a great amount of ethics in their operation. For instance, one may have a look at the document titled *A new ethical code for digital fansubbing*, published on Anime News Network in 2003, which emphasises the provision of access to obscure anime, minimisation of the impact upon the commercial interests and rights of anime-producing companies, voluntary nature of fansubbing devoid of self-promotion, personal profit or recognition, focus on the promotion of anime and the prohibition of financial gain. Such codes of ethics serve as guidelines to individual fansubbers and are intended, same as the disclaimers included in fansub files, as a measure of protection from official copyright infringement charges, where such charges may be pursued. Such measures may be quite necessary as not all fansub users (or even authors) adhere to the ethical code of not obtaining any commercial gain through their work. Fansubs can be used on counterfeit DVDs and VCDs in various markets,² or in videos broadcasted on illegal streaming websites. Illegal downloads via torrents, which have in the past few years been somewhat superseded by illegal streaming sites utilizing

¹ In the past few years there have been several instances of legal action against fan subtitle sites, but mostly against the owners of the registered website domains, not specifically against individual fansubbers. The cases in question are Norsub in Norway in 2012 and wikisubtitles.net in Spain in 2010.

² Although it may be argued that the existence of easily accessible online subtitles and online piracy significantly impacted the industry of counterfeit DVDs in certain regions, with previous customers of such products largely abandoning them in favor of free torrent downloads and online fansub databases.

fansubs as the authorities started to crack down on torrent piracy,³ affect global revenue streams and have a serious impact on the local and international markets, leading to tension between the commercial copyright holders and the authors and disseminators of fansubs (Wurm 2014). Disclaimers such as “NOT FOR SALE” can be easily deleted from subtitle files, together with the name and signature of the fansubber, unless they have been burned into the video. Fansub download sites may generate revenue for their owners through banner advertisements and programs such as Google AdSense. Pirate downloading sites offer all programs from all networks at the same time, thus providing instant gratification to their users, delayed only by the time needed to provide fan subtitles (see De Kosnik 2010: 5–7). Most video players (such as BS player, Winamp, VLC Media player, MPC-HC org and others) offer automatic subtitle search using opensubtitles.org and other fansub databases, so the users do not even need to visit fansub repositories in order to find subtitles for a specific film. Obtaining fansubs is as simple as adjusting the settings in the media player program, from the desired language combinations to the selection of available video formats.

The proponents of fansubbing practices generally resort to two types of arguments in their favour: the promotional and advertising value for fansubbed shows, which may garner additional and wider audiences through pirated and fansubbed content and the doctrine of fair use, which is specific for the USA legislation and which permits the use of content for educative or transformative purposes, such as criticism or news reporting (Postigo 2012). As fansubs are mostly utilized for entertainment, rather than educational purposes, this doctrine rarely applies to them in its primary form, although some fansubbers claim their work can be considered legal since they store and share only subtitle files, not videos, and their subtitles are used only for reading (Yildiz 2017: 44). Considering the fact that fansubbing in the international copyright legislation is generally either not specifically recognized as an activity or it belongs to the rather uncertain area between outright piracy and sometimes potentially justified fair use (Rembert-Lang 2010, Busnello/Romanenko 2012), tacitly tolerated by copyright holders due to the complications and extensive costs of legal action against individual fansubbers, but not necessarily approved or supported, the issue of whether fan workers deserve to have their creations protected by copyright or the possibility of a certain kind of legal protection against illicit and disallowed usage of their work can be considered a rather interesting, if potentially polarizing one. At the core of this problem lies the fact that the ideas of anonymity and privacy in amateur production are essentially opposed to the concepts of authorship and copyright over fan-produced material. A specific author, under a nickname, can be quite well-known within a certain fansubbing community. For some of those authors, their recognisability and popularity among the fan population may even be quite important. However, if they upload their creations online for anyone to download, use and possibly transform, could they afterwards exert a certain amount of control over those files and their usage, once the files have been published online? If their work is freely available to

³ One such instance is the Filmovita streaming website in Croatia, whose owner was arrested in October 2016 for piracy.

anyone, could they somehow prevent it from being altered in any way? There is also the possibility of a sort of “reverse” piracy: unethical paid translators or commercial entities might use fansubs without the authorization of their creators for financial gain (as has been the case with Netflix utilizing subtitles created by the fansub community called DivX Finland for an episode of the SF series *Andromeda* in 2012, leaving the credits used by the fansub group to identify themselves rather embarrassingly visible on the subtitle file). Likewise, Yildiz (2017: 45–46) notes that some Turkish fansubbers claimed their fansubs were plagiarized by well-known Turkish digital TV channels and DVD companies, so they conceptualized legality through two different lenses: fansubbers as pirates and professional subtitlers as pirates (Yildiz 2017: 52). This makes “reverse” plagiarism a potential avenue of research in future fansubbing studies. As may be reasonably expected, the current literature on copyright issues and infringement is overwhelmingly focused on the relationship between pirates and commercial entities, not unauthorized use of fan subtitles by commercial AVT providers or fan-to-fan piracy. This paper attempts to examine the latter, focusing on the case study of a fansubber strike which occurred in Croatia in the summer and early autumn of 2015, causing ripples in the Croatian fansubbing scene and highlighting the existence of friction between several fansubbing communities. To the best of the author’s knowledge, only Hemmungs Wirtén (2012) delved into this subject, researching a strike very similar in its essence to the one described below.

2 The strike and its outcome

From mid- July to mid-October 2015, one of the two largest fansubbing sites in Croatia, *prijevodi-online.org* (n. d.), organized a strike against the unauthorized use of their subtitles by the second major fansubbing site, *titlovi.com* (2021). It must be noted that, while both sites serve at the same time as fansub repositories and communities of fansubbing authors, they have been rather fluid in their nature, with fansubbers from one site freely moving, participating and publishing their fansubs on the other. This situation has changed due to the strike (and even before the strike, as the author’s previous research has demonstrated, some of the fansubbers on both sites identified strongly with one or the other community, see Čemerin/Toth 2017: 207–208). While both sites have registered domains in Croatia, the fansubbers of both communities involve members from all countries of the former Yugoslavia (Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Slovenia and Serbia) due to similar languages which enable the use of fansubs in any of them except Albanian. The fundamental issue which led to the occurrence and escalation of the conflict has been the issue of authorship and rightful attribution of the fansub files: fansubbers claimed their files were being modified without their consent, meaning that their personal signatures in the form of nicknames and the site identification trademarks were being deleted using an automatic script and the files displayed on the rival site as ostensibly authored by the *titlovi.com* community. In addition, the owner of the *titlovi.com* domain has been accused of incurring financial

profit on the unpaid volunteer work of fansubbers, generating revenue through banner advertisements on the titlovi.com website (Forum.hr 2015; Prijevodi-online.org 2015). Research showed that the titlovi.com is genuinely registered as a for-profit company in Croatia, with annual revenue (Fininfo n. d.), but it is registered as a company with a number of activities, thus making it difficult to determine how much of its revenue – if any at all – may possibly come from the use of banner advertisements on this specific website to generate income. The strikers had several requests:

- (1) Complete respect for the author's signature (including the trademark of their fansub community), regardless of who posted the subtitle on the rival website (no deletions whatsoever).
- (2) Deletion of all titlovi.com additions to subtitle files for the fansubbers who asked for this.
- (3) If the fansub authors themselves posted the file on the titlovi.com website, titlovi.com script should offer to add only "taken from" or nothing at all, since some of the prijevodi-online fansubbers did not want the rival site trademark in their subtitle files.
- (4) Polite behaviour towards the prijevodi-online fansubbers on the titlovi.com website, as they themselves behaved towards the fansubbers from the titlovi.com site.
- (5) Agreement among the fansubbers on what constituted excessive advertising and what did not.

As can be seen, the crucial aspects of the conflict have been the issues concerning the advertising or promotion of one's own fansub community, potential commercialization of a non-profit activity and proper accreditation of fansubs reflected in the deletion of the authors' signatures and the insertion of rival site's signatures into the files authored by another community. Those issues have been previously attested in the above mentioned case of fansubber strike described by Hemmungs Wirtén (2012), which took place in Sweden in 2009–2010, arising from the hostilities between three competing Swedish fansubbing websites, and likewise involved the owner of one of the larger sites being accused by the strikers of acquiring financial benefits through site revenue. As such, it may be surmised that those issues might be present in a whole range of other fansubbing communities worldwide; making the possibility of a grey economy centred on clandestine earnings from supposedly "free" services and goods provided by volunteer or hobby workers a thought-provoking question. Likewise, it should also be noted that this was not the first time the prijevodi-online.org community went on strike: from 9–16 November 2011, the administration and a group of fansubbers from the same community went on strike to highlight the mistreatment and even abuse of several fansubbers by several members of their audience. They claimed they received harassment messages from certain subscribers, who were dissatisfied with the speed with which their fansubs were uploaded onto the site, demanding greater turnover rates for subtitles. As a result, the fansubbers stopped uploading new fansubs onto their site for a full week. At that point, they received a number of supportive comments from other members of their audience,

and the strike ended as planned. The strikers resumed their operations at their own speed and convenience.

In 2015, following the accusations directed at them, the titlovi.com community responded on their own forum, claiming the “bad blood” started years earlier in 2009 when they helped the rival site’s authors to publish their files when their own site crashed (Titlovi.com 2015). They considered the strikers’ requests and attacks unfounded, counter-claiming that the signature of the authors themselves had always been respected. They also considered the trademark of the rival website to be an advertisement for that website and thus removed it accordingly from the fansub files posted on their own site. Likewise, they stated that the authors themselves had the option to include the titlovi.com trademark at the beginning of their files, meaning that it was not mandatory to do so, which the strikers claimed to be an untrue assertion. The situation further escalated and the fansubbers from the prijevodi-online community posted their complaints and reasons for the strike throughout the Balkans webspace (by starting dedicated forum threads on various Croatian, Serbian and Bosnian forums) in order to garner support (Forum.hr 2015). They also created strike banners containing the logo of their fansubbing site and slogans such as “TRANSLATOR ON STRIKE” and “AUTHOR’S SIGNATURE IS NOT AN AD”, which they displayed in their forum avatars and signatures.



Fig. 1: Strike banner with clearly marked community affiliation



Fig. 2: Strike banner saying, “Translator on strike”. The banner was created in two gendered versions, this one is for female gender.

This prompted the fansubbers from the titlovi.com community to post a long, defensive and inflammatory response on their own website forum (Titlovi.com 2015). Both sides engaged in flame wars throughout the webisphere. The audience reactions to the strike were somewhat mixed, ranging from the wholesale support for the strikers’ cause to those pointing out that fansubs are in themselves illegal with regard to copyright holders; and those complaining they did not care who the author of the subtitle files was, as long as they could download and use them. Some of the comments on various forums expressed annoyance that a third party should make money from the free and voluntary

labour of fansubbers, while others pointed out that both sites included advertisements, so it was unreasonable of the strikers to accuse the other fansub sites of something they themselves practiced. The strike ended in October 2015 without a compromise solution having been reached. The strikers returned to work, but they maintained publishing their fansubs in the idx/sub format instead of the srt format, so that their fansubs would not be easily transferred to the titlovi.com site (which used the srt format) and to make the process of altering their files more difficult. However, this has slowly changed over the following few years and at the present time (September 2020), their translations are once again uploaded in the srt format.

3 Legislative frameworks: Possible legal protection for fansubbers?

In their comprehensive study on the relationship between the copyright system and fan-made derivative works, Busnello and Romanenko (2012: 14) state that unauthorized translations are protected in most European jurisdictions, despite being created without the permission of the legal owner. A survey of Croatian legislation completed by the author of this paper found no mention of unauthorized translations as being included in the copyright law in any sense except as copyright infringement. Croatian Copyright and Related Rights Act (Zakon o autorskom i srodnim pravima) defines authorship rights as a combination of economic and moral rights. Moral rights include the right of first publication, the right to authorship attribution, the right to protect the work's integrity and the author's reputation or honour and the right to revoke the use of the work. Economic rights involve the right of reproduction, the right of distribution, the right of public presentation of the work in all its aspects and the right to make the work publicly available. Other rights mentioned are the right to financial compensation, resale right and non-specified "other rights of the authors" (Copyright and Related Rights Act 2018: 6–11). All those rights can be enacted either individually or collectively, through associations or organizations for authors. Regarding translations, Article 6 of the Copyright and Related Rights Act (cro. Zakon o autorskom pravu i srodnim pravima) is clear:

Prijevodi, prilagodbe, glazbene obrade i druge prerade autorskog djela, koje su originalne intelektualne tvorevine individualnog karaktera, zaštićene su kao samostalna autorska djela. Prijevodi službenih tekstova iz područja zakonodavstva, uprave i sudstva zaštićeni su osim ako su učinjeni radi službenog informiranja javnosti i kao takvi objavljeni.

Translations, adaptations, musical adaptations and other alterations of a copyright work, which are original individual intellectual creations, shall be protected as independent works. Translations of official texts in the domain of legislation, administration and judiciary, shall be protected, unless made for the purpose of officially informing the public and are disclosed as such. (Copyright and Related Rights Act 2018: 4)

This means that professionally made subtitles are fully protected by the Croatian copyright law, since they fulfil the criteria for copyright protection. Article 285 of the Croatian Criminal Code (2011) provides in its first three paragraphs the penalty of three years'

imprisonment for copyright infringement in the form of unauthorized reproduction, processing, distribution, storage and other similar actions in order to acquire material gain. Since fansubs are not necessarily made with material gain as their objective, but they are for the most part unauthorized, they could as such be considered illegal under Croatian copyright law, even if it provides no mention of them *per se*. Therefore, within the legal framework, there is no viable form of protection for fansubbers' moral rights, except for the self-imposed non-publication of their files online. To date, there have been no legal repercussions for the fansubbers' activities in Croatia, but there have been several instances of legal action against the owners of illegal streaming websites and pirates utilizing warez or torrents to share pirated content and some of those streaming sites did use fan subtitles in their videos. All those instances have been related to significant material gain by the offenders, which fansubbers themselves do not obtain. Both Croatian fansubbing sites examined in this paper have clear statements in their community regulations against piracy (defined as the sale, purchase, exchange, distribution of illegal video material or linking to such contents). However, neither of those groups considers fansubs in themselves a form of piracy. Even though there is no tangible legislative protection for the fansubbers who would like to exercise any kind of moral right or ownership over their fansub files, this does not mean they are completely powerless, as the strike itself has demonstrated. Furthermore, the propensity of fansub communities towards self-regulatory measures has been at play in the aftermath of the strike. As an additional act following the strike, community regulations of both fansubber communities have been amended, adding several rules which specifically address the issues pertaining to the strike and the reasons for the conflict. Regulations of the prijevodi-online community now include the following rules (Prijevodi-online.org 2008/2020):

- (1) The name of the subtitle file should contain the name of the group which ripped the subtitles.
- (2) Stolen translations or fansubs where the name of the original translator has been deleted will be removed from the site.
- (3) Translators should always sign their subtitles, in order to prevent subtitle theft.
- (4) Subtitle files proven to be stolen will be removed from the site.
- (5) If you tweak or adapt someone's fansubs, you should add your own signature below the original author's. If you remove their signature, you will be punished.

The emphasis here is on the strict adherence to the proper subtitle attribution, even with subtitles that have been further adapted by other fansubbers. As seems rather obvious, the rules referring to the "theft" and "stolen" subtitles relate to *their own* subtitles which have been altered to exclude their group identification marks, but not to the professional subtitles ripped from DVDs and similar media.

Titlovi.com posted their own redacted version of their regulations, including the following rules (Titlovi 2008/2015):

- (1) Translators enjoy special protection for their copyrighted works. The authors (mostly members of this site) retain copyright over their fansubs and therefore enjoy special protection against misuse (plagiarism, signature deletion etc.) provided by the site managers; to the extent it can be achieved.
- (2) All forms of advertising (with an emphasis on advertising other sites) are strictly forbidden, except with the approval of an admin.
- (3) The ban also applies to avatars, names/nicknames and member signatures in subtitles.
- (4) Subtitles should contain only: “translated by: member name, www-site name-com” in a single line of a single subtitle.
- (5) Members should report stolen subtitles to the moderating staff.
- (6) A fansubbed file belongs to the author who claims to have translated it, either by ear or using a file not in a related language, independently or in cooperation with other authors, if the circumstances do not give rise to justifiable doubt, unless proven otherwise.
- (7) If there is reasonable doubt, the person claiming to be the author should provide affirmative evidence to the site managers. This is primarily meant for members with a low file count.
- (8) Evidence means a detailed analysis of at least 40 random subtitle lines from both files being compared, subtitle age records from other sites and other reasonable evidence.
- (9) Author protection involves the principle that a proven intervention by other people into someone’s fansub is not a separate copyrighted subtitle and does not necessarily have to include the signature of the original author.
- (10) Authors who meet the above conditions are given maximum protection by the site titlovi.com.

Not only is their regulatory framework quite detailed and structured, the language employed seems rather “legalese” in its style and expression. The whole text reads as a defensive measure, providing strict and fairly specific items in order to determine the authorship of a certain file and inviting the fan population to cooperate and report suspicious files to the site moderators, thus ostensibly absolving the site from any potential blame for the appearance of files pirated from other fansubbers. If anything, these developments show that, despite there being no legitimate way to protect one’s fansubs from unacceptable use and modification, the communities themselves are acutely aware of this issue and prone to exerting a high level of self-enforced control with regard to the ownership and copyright over their files.

4 Conclusion

Despite the end of the strike and the fansubbers' long since resuming their activities, the question still lingers whether the issues which caused the event have been fully resolved in terms of exercising any kind of formal authority over the files uploaded online. While the regulations imposed by both fansubbing communities provide a measure of protection against unauthorized and unwanted modifications and transfers of individual subtitles, their functionality depends on the goodwill of fansubbers and the users of their products, many of whom may be less than virtuous when it comes to free online content. Moreover, the unfolding of the strike and the nature of hostilities between the two communities raised the issue of what essentially constitutes authorship in the fansubbing context. While the fansubbers from both sites were quite willing to claim "copyright" and ownership over the files made by their own members, with some of them being vehemently opposed to any kind of alteration of their work or the removal of their identifying marks as authors of specific files, the fact that professionally made subtitles occasionally make their way onto their sites has never been addressed, together with the fact that their own work, as it mostly lacks formal authorization by the copyright holders to translate their audio-visual content, may be seen as encroachment upon the rights of original authors of fansubbed materials. Bearing this in mind, a quote by Dwyer concerning the Swedish fansubber strike seems appropriate: "The fansubbers assert authorial rights over their translations, despite the fact that their subtitling typically infringes the rights of creators and copyright owners to control how, when and by whom their content is translated." (Dwyer 2016: 149). It is at least somewhat dubious to willingly overlook the author's ability to exercise moral rights over their content in one context and when it comes to a certain type of content, while religiously enforcing it in another. Fansubbers' works and works created by the original content owners cannot be conceived as separate categories when it comes to authorial rights.

In addition, if the claims of financial profit incurred by the owners of fansubbing websites may prove to have some merit to them, this would no longer fall under the domain of informal and/or diverse economies (Lobato/Thomas/Hunter 2012: 5–6) but rather classic exploitation: individuals acquiring profit from unpaid labour of others without their explicit consent. While the owners of the fansub website domains might be charged under copyright infringement laws if the accusations of material gain are proven, such charges would have to be seriously substantiated. Although fansubbers allow permissive and unrestricted use of their content, this should not be seen as an invitation to profiteering. Some fansubbing communities worldwide managed to gain official recognition and legitimacy for their sites, such as the United States' Crunchyroll which rose from its anime-fansubbing beginnings to transform itself into a legal distribution channel for anime, manga and drama, thus becoming genuine revenue-making endeavours and their fan translators obtaining official paid status. However, there is a deep chasm between such instances and the type of financial profit gained through illicit use of fansubbed content. As of yet (September 2020), both *titlovi.com* and *prijevoli-online.org* remain active and both websites contain advertisements, with pop-up messages

requesting those who access the sites to turn the adblocking software off. Titlovi.com's activities have been expanded to include fan-written film reviews and film news in the Croatian and Serbian language, while prijevodi-online.org's website now includes shorter audiovisual media news announcements and a calendar of TV series' broadcasts. This gives them both an almost professional outlook, additionally blurring the line between leisure and gainful activity. It may be surmised that neither website lacks in visitors who eagerly consume their content. However, it should also be borne in mind that both communities utilize much effort and knowledge to perform their work as content creators, inasmuch as they build upon legitimate audiovisual media's authorial content. As Yildiz (2017: 48) asserts, fansubbing competence can be defined as a joint body of knowledge, skills and abilities needed to fansub and some of the fansubbing communities desire to be considered professionals, rather than incompetent amateurs (Yildiz 2017: 52). This would imply that any future research into the authorship rights of fansubbers as content creators ought to take into consideration the semi-professionalism exhibited by some of the fansubbing communities. And yet, the very same research has shown that only a few fansubbers were willing to be identified by their own names, due to legal reasons (Yildiz 2017: 52).

To conclude, the issues raised and explored in this paper point to the development of a new kind of digital society, one in which the discourse regarding the personal rights of authors is retained, but the notion of who and how should exercise them is being redefined. With further progress of fansubbing, fandubbing and other types of fan-produced derivative content, the amounts of which have reached unparalleled quantities all over the Internet, the questions related to authorial entitlement, right of proper attribution of fan works and the control asserted over them may prove to be the causes of further strife within communities devoted to their production, as well as the driving force for their further evolution. It remains to be seen how those issues shall develop and affect the field of volunteer fan translations in the future.

References

- Addic7ed (n. d.) – <https://www.addic7ed.com> (19 March 2021)
- Anime News Network (2003): *A new ethical code for digital fansubbing*. – <http://www.animenewsnetwork.com/feature/2003-06-08/2> (13 September 2020)
- Busnello, Felipe; Olga Romanenko (2012): Copyright vs. fan-made derivative works: Unresolvable conflict or unavoidable impulse for reform of the present copyright system. – https://www.academia.edu/1255504/Copyright_vs._Fan-made_Derivative_Works_unresolvable_conflict_or_unavoidable_impulse_for_reform_of_the_present_copyright_system (10 July 2020)
- Čemerin, Vedrana; Marko Toth (2017): "An exploration of motives for fansubbing based on several Croatian fansubbing communities." David Orrego-Carmona, Yvonne Lee (eds): *Non-professional subtitling*. Newcastle-upon-Tyne: Cambridge Scholars Publishing, 199–234
- Condry, Ian (2010): "Dark Energy: What fansubs reveal about the copyright wars." *Mechademia* 5: 193–208

- Croatian Copyright and Related Rights Act and The Act on Amendments to the Copyright and Related Rights Act (2018): Official English translation – https://www.dziv.hr/files/file/eng/zakon_autor_ENG.pdf (13 September 2020)
- Croatian Criminal Code (2011): Provisional English translation – <http://www.mvep.hr/files/file/dokumenti/prevodenje/zakoni/kazneni-zakon-nn-125-11-eng.pdf> (13 September 2020)
- Daniels, Joshua M. (2008): “Lost in translation: Anime, moral rights, and market failure.” *Boston University Law Review* 88 [3]: 709–744
- De Kosnik, Abigail (2010): “Piracy is the future of television.” Convergence culture consortium – http://convergenceculture.org/research/c3-piracy_future_television-full.pdf (12 September 2020)
- Denison, Rayna (2011): “Anime fandom and the liminal spaces between fan creativity and piracy.” *International Journal of Cultural Studies* 14 [5]: 449–466
- Díaz Cintas, Jorge; Pablo Muñoz Sánchez (2006): “Fansubs: audiovisual translation in an amateur environment.” *Jostrans: The Journal of Specialised Translation* 6: 37–52 – https://www.jostrans.org/issue06/art_diaz_munoz.pdf (22 March 2021)
- Dwyer, Tessa (2016): “Multilingual publics: fansubbing global TV.” David P. Marshall, Glenn D’Cruz, Sharyn McDonald, Katja Lee (eds): *Contemporary publics: shifting boundaries in new media, technology and culture*. London: Palgrave Macmillan, 145–162
- Fininfo (n. d.): “Titlovi d. o. o.” – <https://www.fininfo.hr/Poduzece/Pregled/titlovi/Detailno/127192> (22 March 2021)
- Forum.hr (2015): “Štrajk Prevoditelja na prijevodi-online.org.” (19 July 2015) – <https://www.forum.hr/showthread.php?t=890461> (22 March 2021)
- Hatcher, Jordan S. (2005): “Of otakus and fansubs: A critical look at anime online in light of current issues in copyright law.” *Script-ed* 2: 514–542
- Hemmungs Wirtén, Eva (2012): “Swedish fansubbers call off strike! Fan-to-fan piracy, translation, and the primacy of authorization.” Dan Hunter, Ramon Lobato, Megan Richardson, Julian Thomas (eds): *Amateur media: Social, cultural and legal perspectives*. New York: Routledge, 125–137

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ISSN 1867-4844

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- Jenkins, Henry (2006): When piracy becomes promotion. – <http://reason.com/archives/2006/11/17/when-piracy-becomes-promotion> (12 September 2020)
- Lee, Hye-Kyung (2011a): “Cultural consumer and copyright: A case study of anime fansubbing.” *Creative Industries Journal* 3 [3]: 237–252
- Lee, Hye-Kyung (2011b): “Participatory media fandom: a case study of anime fansubbing.” *Media, Culture & Society* 33 [8]: 1131–1147
- Leonard, Sean (2005): “Celebrating two decades of unlawful progress: Fan distribution, proselytization commons, and the explosive growth of Japanese animation.” *UCLA Entertainment Law Review* – <https://ssrn.com/abstract=696402> (12 September 2020)
- Lobato, Ramon; Julian Thomas, Dan Hunter (2012): “Histories of user-generated content: Between formal and informal media economies.” Dan Hunter, Ramon Lobato, Megan Richardson, Julian Thomas (eds): *Amateur media: social, cultural and legal perspectives*. New York: Routledge, 3–18
- Pérez-González, Luis (2006): “Fansubbing anime: Insights into the butterfly effect of globalisation on audiovisual translation.” *Perspectives: Studies in Translatology* 14 [4]: 260–277
- Pérez-González, Luis (2013): “Amateur subtitling as immaterial labour in digital media culture: An emerging paradigm of civic engagement.” *Convergence: The International Journal of Research into New Media Technologies* 19 [2]: 157–175
- Pérez-González, Luis; Şebnem Susam-Saraeva (2012): “Non-professionals translating and interpreting. Participatory and engaged perspectives.” *The Translator* 18 [2]: 149–165
- Prijevodni-online.org (n. d.) – <https://www.prijevodni-online.org/> (22 March 2021)
- Prijevodni-online.org (2015) – <https://www.prijevodni-online.org/smf/index.php/topic,25693.0.html> (URL accessible to registered users only, 22 March 2021)
- Prijevodni-online.org (2008/2020): “Pravilnik sajta i foruma Prijevodi-online.” – <https://www.prijevodni-online.org/smf/index.php/topic,19.0.html> (22 March 2021)
- Postigo, Hector (2012): *The digital rights movement: The role of technology in subverting digital copyright*. Cambridge: MIT Press
- Rembert-Lang, LaToya D. (2010): “Reinforcing the Tower of Babel: The impact of copyright law on fansubbing.” *Intellectual Property Brief* 2 [2]: 21–33
- Subtitle Edit (n. d.) – <https://nikse.dk/SubtitleEdit/> (19 March 2021)
- Subtitle Workshop (2013) – <http://subworkshop.sourceforge.net/> (19 March 2021)
- Titlovi.com (2008/2015): “Pravila za postavljanje titlova na sajt titlovi.com.” – https://forum.titlovi.com/pravila-za-postavljanje-titlova_t19682.html (22 March 2021)
- Titlovi.com (2015): “Naš stav – druga strana medalje.” (19 August 2015) – https://forum.titlovi.com/nas-stav-druga-strana-medalje_t72024&FID=71&PR=3.html (22 March 2021)
- Titlovi.com (2021) – <https://titlovi.com/> (22 March 2021)
- Wurm, Alicia (2014): “Anime and the internet: The impact of fansubbing.” *Reflexive Horizons* – <http://www.reflexivehorizons.com/2014/02/18/anime-and-the-internet-the-impact-of-fansubbing/> (12 September 2020)
- Yildiz, Mehmet (2017): “Pirates (!) strike back: Turkish fansubbers standing up for fansubbing.” *COMU International Journal of Social Sciences* 2 [3]: 39–56

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