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The Conceptualization of Literature

Caroline Pamp

Tutor/examiner:
Ulf Petrusson

Abstract

This essay highlights some aspects of the future of literature: product placement in literature (with the example *The Bvlgari Connection*) and increased protection of literature (trademarks and a wider scope of copyright). There is a conflict between intellectual property, and thus economic incentives on one side and artistic freedom and freedom of speech on the other. A societal as well as a commercial perspective is used throughout the essay. Literature is closely linked to more commercial products, such as film and music. In essence, this development leads to that literature becomes a product.

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Literature

1 Introduction

Traditionally, literature has been protected by copyright. However, as the world evolves into an information society and virtual products become a reality, both the concept of copyright and the way literature is protected will change. Naturally, this will have legal implications as well as implications for literature as an art form. I intend to investigate these changes, how they look, and what the consequences of these changes are as of today and may be in the future. The future is never easy to predict; however, it is a matter of probabilities based on the knowledge we have as of today. The changes in how literature is protected (not solely by copyright anymore but also by trademarks etc.) will affect literature as an art. However, when these changes take place, this should be considered, to the highest degree possible, in order to minimize these effects. Literature is art and should not, by its very definition, be affected by the way it is protected. It is therefore important to uphold the notion of artistic freedom. I am aware of the fact that this has always been something of a chimera, but that should at the very least be the ideal. I have identified two rather new features that I will examine in this essay:

1. Product placement in literature
2. Increased protection of literature: trademark protection and a wider scope of copyright

In order to examine these issues, I will answer the following questions:

- What is product placement?
- What are the consequences of product placement and increased protection of literature?
- How does the relationship between intellectual property rights (IPR:s) and the artistic freedom look today, and how will it look in the future?¹
- Is it possible to write a book with product placement and still have complete artistic freedom? The example that I will use is *The Bvlgari Connection*².
- From a commercial perspective, how and when should product placement be used?
- Are there solutions/compromises that will ensure the artistic freedom while preserving the rights for the creator of the intellectual property?

1.1 Purpose

My purpose with this essay is to give some insight in the future of literature and intellectual property rights concerning literature, and their complex relations. Intellectual property rights present a Janus face to literature: they are essential for its survival, i.e. commercialisation, yet, they may in some senses pose a threat to the art as such. This is important to understand. From a commercial point of view, intellectual property rights

¹ This will be a discussion about IPR:s and literature, not a general discussion that includes film, visual arts, performance arts etc.

² Weldon, Fay, *The Bvlgari Connection*, London (2001).

are necessary for investments in literature. If it cannot be protected, no investments will be made, since it would not be possible to recoup said investments. This is very logical, but it tends to be forgotten among authors and other literary people. The problem is that literature wants to regard itself as sacred – not as a product. However, the trends I investigate all point in a direction where literature eventually becomes a product. There is also a relation with virtual products. Literature does not stand on its own but is, in terms of legal protection as well as in terms of culture without boundaries, closely linked to other arts, such as visual arts, films, music etc. as well as more commercial products such as computer programs. Hopefully, this development will not entirely be a bad thing. Literature might become a product and still retain something of its *je ne sais quoi*.

I would also like to point out that “stories” commercialised by for instance Disney already *are* products. These stories, such as Cinderella, for instance, have become a means for selling products connected to it: toys, candy, stationary ... as long as it can be branded and sold, it will be. An important point is that the most successful commercialisation is directed towards children, not adults. However, adults are indirectly targeted, since children do not have money themselves.

I also hope to contribute to an increased comprehension between law and literature. Few professionals in these fields have knowledge about the other subject – the law subject or the literary subject.

Since I believe that artistic freedom is, generally, more important than economics, which are guaranteed by intellectual property law, I might tend to sympathize more with literature as a concept than law as a concept, in cases where there exist conflicts. However, I am aware of this loyalty conflict and I will do my very best to write an unbiased essay.³ I do not think that intellectual property rights necessarily are a hindrance to the artistic freedom, but there is, sometimes, a conflict between these two interests. My concern and aim is to balance the interests of literature and the artist’s rights with commercial rights and the interests of law. Throughout the essay, I will focus on these two perspectives: the societal perspective and the commercial perspective.

1.2 Method

Since product placement in literature and increased protection of literature are such new phenomena, I do not have much literature to use. I have read several articles on these subjects, but much of the theory (if any) concerning these features is still very much undeveloped. Therefore, I have been using what seemed appropriate in each context. For instance, I have used literary theory when I have thought that it added important factors to this essay, and I have touched upon some general theory of product placement (founded in marketing). However, to a large extent this essay is not the result of theories, since there are so few that are relevant.

In chapter 2, I will provide a general background and framework for the entire essay. There, conditions of production for literature (divided in two parts: the writing of the book and the publishing of the book) are connected and explained in their relation to both

³ To write a purely objective essay is, in my opinion, a chimera. Objectivity is something that humans simply are not capable of, due to hermeneutics, language etc. What we can do, however, is to recognize our limitations and strive to come as close to objectivity as possible. To be aware of this is something that increases the probability of succeeding in writing an objective essay.

product placement in literature and increased protection of literature. Also included in this chapter are the economic interests and incentive structures, relevant for the conditions of production in literature.

I will make a general discussion of some matters of principle in chapter 3 and 4 in order to provide background and context to the conflicts between law and literature (they have different goals that are not always compatible). These matters of principle show where practices used in literature may clash with practices of law. There are two sides here: enhancing culture versus infringement of intellectual property. Unfortunately, it is not as simple as one or the other, but can be seen as both, simultaneously, dependent from which perspective one chooses to look at it. My aim is to highlight these conflicts so that they are viewed from two sides, not just one.

In chapter 3, I will make a study of the novel *The Bvlgari Connection*, since it is the first case of product placement in books.⁴ Naturally, all references to the novel are to the English edition. There are some other examples of product placement in books that I will discuss, too. My discussions will be about literature in general, but I will focus on the novel as a genre, since it is the novel that is most likely to contain product placement and be protected by trademarks. Concerning product placement in literature, I will use analogies from film.

I have contacted Fay Weldon, the author of *The Bvlgari Connection*, and asked for a copy of the agreement, but she answered that the agreement is confidential, which means that unfortunately, I have not managed to get a copy of it. However, I have knowledge about the central provisions of the agreement and I will analyse these, in order to see what possible restrictions these provisions may have on the artistic freedom. I will also discuss how the product placement is carried out in the novel and if the artistic freedom is limited in any way. I will also make a general discussion about product placement in literature: which categories of products it is suited to, how such an agreement should look etc. This discussion will include a comparison to product placement in films, since product placement in films has taken place since quite some time.⁵

The spelling of Bulgari, the company that Weldon concluded the product placement agreement with, is in the title of the book *The Bvlgari Connection* spelled Bvlgari; however, whenever I have seen the company name mentioned in a text, it is spelled Bulgari. Therefore, I have chosen to keep the original spelling of the book title, and on all other places in this essay, I have chosen to spell the name Bulgari.

In chapter 4, I will focus on a general discussion concerning protection of literature. What happens if literature is protected in other ways than it is today? Not only do I have a discussion of some matters of principle, but I also discuss the framework within which literature is protected, how it is constructed and which constructions that can be used in

⁴ It is the first book where the author gets paid in money for a product to appear in a book. There are, however, earlier examples. In 1996, Bill Fitzhugh wrote the novel *Cross Dressing*, and in order to obtain publicity for his new book, he made a deal with Seagram: in exchange for some references to Seagram products, he got a couple of cases of single malt scotch.

⁵ Steven Spielberg's film *E.T.: The Extra-Terrestrial*, from 1982, is often seen as the beginning of product placement, although it actually existed before then. *E.T.* included Reese's Peanut Butter Caps, which were used to make the guest walk into the house. Originally, the manuscript used M&M candies, but the candy-maker was not interested in paying for this; thus, the change of product. (From Buss, Dale, "A Product Placement Hall of Fame", collected from <http://www.businessweek.com/1998/25/b3583062.htm> on the 4th of February, 2003.)

order to increase protection of literature, and some arguments for and against an increased protection of literature.

I have in this essay used very few references to law. This is because I think this is a discussion that will be relevant in a wider perspective. The most interesting question here is not “what is the law today?”, rather, I have tried to focus on “what should we have in mind when designing the laws of tomorrow?”. The current scope of copyright is not what matters most, it is what happens if we increase or decrease it, and what we wish to achieve with such changes (or not). Therefore, law references are mostly used as examples.

Another thing that should be noticed is that this essay is written for lawyers, thus, I have tried to be as clear as possible concerning all literary discussions, terms and examples. This does not mean that I have simplified anything, only that it is written from the perspective where the reader should not need any prior knowledge of literature in order to understand this essay.

I have chosen to write this essay in English although the perspective is mainly a Swedish one. The reasons for this are that I think that this area is after all a rather international one, and not only of interest for Swedish-speaking persons.

1.3 Definition

1.3.1 Artistic freedom

Simply put, artistic freedom is what the artist has when no laws or regulations are preventing the artist from doing whatever s/he wants. However, this only considers the legal, and thus written rules. There is also another side of artistic freedom. Is the writer free to write whatever s/he wants in a general sense? Does not s/he have to conform to society, to readers, to critics and so on? As a matter of fact, it is my firm belief that complete artistic freedom, just as objectivity, is a chimera. The goal should always be to come closer to the ideal, but at the same time be aware of the fact that the ideal cannot be reached.

1.4 Delimitations

This essay is written in Sweden, as a part of my Swedish law education. This means that Swedish law has been my main focus. However, intellectual property is international in character, and therefore, I will use examples from other law systems when appropriate, especially the U.S. law system. The reason for this is that I see this development as international in part; however, this conceptualisation is very much a part of U.S. hegemony in cultural matters concerning popular culture, at least in our part of the world. I also do not write only of what is but about what will be. Product placement in literature is yet very undeveloped, but it is not unlikely that this phenomenon will have great impact on literature eventually. Increased protection of literature is also interesting since there is always room for some changes of the borders: IPR:s will gain and lose depending of the legal development in these areas.

This essay encompasses literature as an art form, and thus, the part about the artistic freedom in relation to intellectual property will be concerned with literature only, no

other art forms. However, in my part about product placement, I will make a comparison between film and literature. The reasons for this are that product placement in literature is still very rudimentary: product placement in film has taken place for a much longer period of time, and also, by making a comparison, the conditions for product placement are enlightened and explored.

To be very clear, my analysis is based on the fact that we live in a capitalistic society, permeated by liberal ideas such as the invisible hand and the assumption that people will do what benefit them most etc. I do acknowledge the fact that societies can be constructed differently, but I have used the society that we currently live in as a starting point. This also means that this essay is written from a Western culture point of view. This does not mean that I consider other cultures inferior, only that it would take this essay too far to discuss more than one cultural setting, and it seemed most natural to me to analyse the culture in which I am living. To discuss how product placement and increased protection of literature could affect other, imaginary or existing societies, would undoubtedly be most interesting, but that would take this essay too far, too.

2 Background: Conditions of production for literature

It has been argued that product placement and/or increased protection of literature could facilitate a more varied development of literature. Since funding is hard to come by, some novels are simply never written. If product placement became common, or it would be possible to protect literature in other ways than now, it would be another way for authors to afford to write, or get published, respectively. Commercialisation of the writing process is nothing new, though. Some authors have, during the course of history, found themselves forced to write in a more commercial manner, meaning writing what the public wants. They have felt that they had no other means of supporting themselves and/or their family, which has affected their writing, whether necessary or not. Some would of course argue that there is no problem with that, since what the public wants, per definition, is good literature, according to them.

2.1 Part I: The writing of the book

An author does not need so much money to fulfill his or her vision. The only cost, basically, is the salary for the author during the time that it takes to write the book. This can vary, of course, but all writers do not write full time, either. Fay Weldon states that it took her three months to write *The Bvlgari Connection*⁶, however, she is a well-experienced writer who also has been working as a copywriter, and this is probably a much shorter time-period than the more “average” author needs to write a book.

Authors do not need, per se, to write full-time, either. Many really good authors through history worked other jobs at the same time as they were writing. Some examples are T.S. Eliot, Jules Verne, Franz Kafka and Joseph Conrad. Some even argue that their novels are better for it! John Maxwell Hamilton claims that working more than one job (one job being a writer and one being a mundane job) can be the key to success; although they have less time to actually write, they may have more to say when they find that time.⁷ Experience of all kinds is necessary in order to write well, and if writing full time, the writer will get less “real-life” experience and will not write as good books. “We are better off because Chaucer went on diplomatic missions as far away as Italy, all the while collecting experiences for use in the pilgrims’ stories in his *Canterbury Tales*. /.../ Because Melville went to sea for four years, gathering materials /.../ Because Hawthorne found a ‘rag of scarlet cloth ... the capital letter A’ and a related story in a dusty file at the Salem Customs House.”⁸

Another important point is that established, popular authors are most likely to write a novel where product placement is included. It is most likely that these novels would have been published anyway, with or without the extra money. Authors who do not have a large audience will not be of interest for companies since their potential audience will be so small. The same reason applies for increased protection of literature. Examples of registered trademarks in the U.S.A. are, as of the authors, very popular such, and as for

⁶ Rose, M.J., “Dismayed authors respond to the news that a fancy jeweler paid a noted novelist to put its products front and center in her new book”, collected from <http://www.salon.com/books/feature/2001/09/05/bulgari/print.html> on the 20th of June, 2002.

⁷ Hamilton, John Maxwell, *Casanova was a book lover* (2000), p. 53-54.

⁸ Hamilton, p. 53.

names, definitely a part of a best-selling series, such as the twin books (Sweet Valley High).

2.2 Part II: The publishing of the book

A publishing firm has certain significant costs in order to publish a book. It is always a risk if the book is going to sell well or not, and it is not possible to recoup all investments from all books published. Risks are especially associated with formerly unpublished authors, but also with books that are thought to appeal to a very small audience.

Therefore, they are not likely to either take risks or publish a book if they do not get intellectual property to it in at least some sense. It has been argued that not even copyright protection is necessary, since publishing firms still publish old classics, which do not longer have any copyright protection. However, I took a look at some big publishing firms in Sweden, and whereas I have not made any formal statistical investigation, it is clear that such books make up a very small percentage of all books published; also, they are not the best-sellers. As for if literature needs increased protection: it seems clear that it is possible to be a profitable publishing firm in the current legal system in Sweden with copyright protection. It is easy to suspect that increased protection is a means of generating more profit, not something necessary for publishing firms to survive. On the other hand, increased protection could mean that publishing firms could generate larger profits, which could be used to publish more obscure books, thus facilitating variety of literature. The outcome is dependent on the visions of the publishing firm: do they “just” want to make money or do they want to make much money in order to fulfil their visions of a more varied literature available on the market?

Due to the digital development, e-books and print-on-demand are possibilities, and these untraditional means of publishing could decrease the costs for publishing a book. This can mean that the need for intellectual property as a means for recouping investments will decrease, since the investments will be lower.

2.2.1 *The marketing of the book*

Bill Fitzhugh claimed that he used product placement solely in order to get more publicity for his book. He said that since he came out with his second novel, he would not be considered newsworthy unless he made it to the best-seller lists, which he thought very unlikely. Therefore, the money he needed was not really money for the book, but money for marketing. He figured that publicity would help marketing his new book if he did something spectacular.⁹ The key here, is as always in such matters, that marketing costs money and that publishing firms are reluctant to pay for it. It is very likely that they will be even more reluctant to pay for marketing should they not get sufficient intellectual property protection.¹⁰

⁹ Fitzhugh, Bill, “To sell out takes a lot of bottle”, *The Guardian*, November 6, 2000.

¹⁰ There can be endless arguing about how much “sufficient” intellectual property protection is, I suspect that most publishing firms always want as much as they can get.

2.3 Incentive structures

In order for books to be created, there need to be sufficient incentive structures, both for the authors and for the publishing firms. The author has two main incentive structures: the honour and money. The publishing firm also has two main incentive structures: money and furthering the interest of literature¹¹. All publishing firms are not interested in the latter, but there are publishing firms that have such idealistic interests, too. How is intellectual property balanced against these incentive structures? For the money incentive, it is easy. Intellectual property generates money for the publishing firm, which in its turn can give money to the author in the form of royalty and similar. However, that is not the only aspect of intellectual property. Intellectual property can also, paradoxically enough, by its very nature prevent books from being written. This is because if intellectual property is awarded, that means that another author may not use what is awarded intellectual property. This conflict is meant to be solved by the fact that intellectual property shall be awarded to concrete manifestations of ideas, not the ideas in themselves. But when intellectual property increases, the line between an idea and a concrete manifestation of an idea becomes a very blurred line indeed. The problem here is that intellectual property is just that, intellectual. “[I]nformation is not, technically speaking, a scarce resource in the requisite sense. If A uses some material resource, that makes less of the resource for B, so we need some legal mechanism for determining who gets to use what when. But information is not like that; when A acquires information, that does not decrease B’s share, so property rights are not needed.”¹² I have included this quote because I think it sums up the nature of intellectual property very well, although I do not agree with the conclusion. The conclusion takes the nature of intellectual property into account, but not the incentive structures needed in order to create the object of intellectual property. What use is it taking away the construction of intellectual property if the result is that there is no object (that could have been awarded intellectual property, had the construction existed) to share?

But what about the idealistic interests? Some have argued that intellectual property is not needed, since the author would create literary works anyway. To me, this seems very reasonable and likely. However, this reasoning does not take the second part of the conditions of production for literature into account, namely the publishing of the book. As I have hinted above, the digital development may in the future decrease the need for the publishing firm as an intermediary. That is, however, not the situation as it looks today. I do not think that the need for publishing firms will altogether disappear in the near future, and thus, the incentive structures of the publishing firms must still be taken into account, too. Although I am certain that some publishing firms have idealistic interests as well, I do not think that there are many, if any, that can afford, money-wise, not to get intellectual property protection. As a matter of fact, as I have written above, that is the case today with classical works that no longer have intellectual property protection, and whereas they are still published to a large extent, they alone cannot make a publishing firm make a profit or break even.

¹¹ With “furthering the interest of literature”, I mean both furthering literature as an art form and improve and develop the position of literature in society.

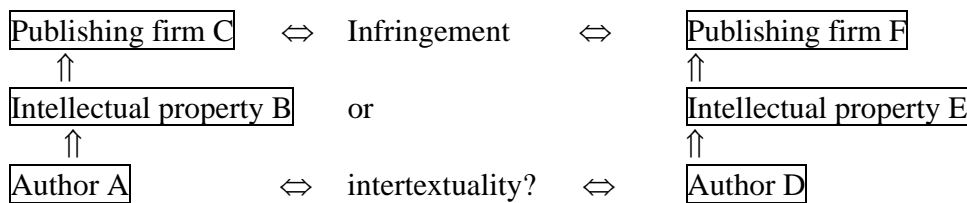
¹² Long, Roderick T., “The Libertarian Case Against Intellectual Property Rights”, collected from <http://libertariannation.org/a/f3111.html> on the 30th of January, 2003.

How are the incentive structures affected by product placement? For the author, this may be another way of financing the actual writing of the book. If the company that is placing a product is also the publisher, this may also be another way for the author to get this book published. Product placement can be seen as a way of sidestepping the publishing firms. Concerning the intellectual property, if the company that is placing a product is the publisher, they do not have a specific need for intellectual property in the book, copyright. However, that company very much needs to get other intellectual property protected, which generally mean trademarks. If the company that is placing a product is not the publisher, the reasoning above is as true for such a book as for any other for the part the publishing of the book.

2.4 Conclusions

The main problem for literature seems to be not in the part when the author writes the book, but in the part when a publishing firm actually publishes a book. It is also interesting to note that product placement often seems to be mainly concerned with part I (although a sponsor can be the publisher, too), and increased protection of literature is mainly concerned with part II.

It is important to note the relationship between the authors, their publishing firms and the intellectual property. Let us say that author A produces intellectual property B. Intellectual property B is assigned to publishing firm C. Author D writes a novel, intellectual property E, which is a possible infringement of intellectual property B, and is assigned to publishing firm F.



This model is created in order to show that these relationships are complex. The authors do not keep their intellectual property rights themselves, but assign them to their publishers. As a result, there are several relations. The publishing firms are companies with economic interests. The authors have cultural interests. This means, in terms of intellectual property, that it is in the interests of the publishing firms to have this legal construction covering as much as possible. For the authors, on the other hand, intellectual property must not cover that much, so that their artistic freedom is ensured and they are able to write what they want, without being hindered by intellectual property rights. These interests will inevitably sometimes collide and a battle on the legal field may ensue. However, from a more balanced point of view than either side's, it is clear that these positions are interrelated. If the publishing firms cannot get intellectual property rights, they will not have the money necessary to publish any books or pay their authors. If the authors are hindered by intellectual property rights from writing books, there will not be any books to publish for the publishing firms, which means they will not get any intellectual property to make money on. Thus, a balance between these interests must be found.

3 Product placement in literature¹³

3.1 What is product placement?

Product placement is a rather subtle way of advertising. Product placement differs from traditional advertising in the sense that an advertisement in any form is not created around the product; instead, the product is placed in a film or elsewhere with already existing content. In traditional advertising, the product normally comes before the content. In product placement, the content normally comes before the product. This is not the only way of doing it, though. *The Bvlgari Connection* did not have content before it had a product. Product placement is a part of advertising, seldom or never the only part. Instead, it is a part of the company's market mixture. To a large degree, products that are placed are prestigious and placed in well-known films, such as the James Bond-films.

One definition of product placement is the following: product placement is "the inclusion of a brand name, product, package, signage, or other trademark merchandise within a motion picture, television show, or music video."¹⁴ A more accurate term for product placement may be brand placement, according to Laurie A. Babin and Sheri Thompson Carder.¹⁵ I think this is an interesting perspective, since although it is the product that is placed, it is the brand that really needs to sell; the physical form in which it is sold is of minor significance. Note that this definition per se seems to exclude product placement in literature. However, I think that the enumeration of media shall not be seen as exhaustive but exemplifying, which would result in a definition that would include any imaginable medium.

3.1.1 Different classes of product placement

Cristel A. Russell suggests that there are at least three classes of product placement: screen placement, script placement and plot placement.¹⁶ However, her definitions are based on the assumptions that there are at least two dimensions at work: the visual dimension and the auditory dimension: either you see the product (screen placement), or you hear somebody mention it in a dialogue (script placement). Plot placement means that the product becomes part of a plot, and this can mean any combination of the visual and the auditory dimension. In literature, you have only one dimension to use: the visual

¹³ One columnist wittily called product placement in literature for literatisation: Goodman, Ellen, "Another word from a sponsor", collected from <http://www.cincypost.com/2001/sep/11/ellen091101.html> on the 20th of June, 2002. Another term that is suggested is fictomercial, collected from <http://www.wordspy.com/words/fictomercial.asp> on the 21st of February, 2003.

¹⁴ This definition comes from Steertz, Eva Marie, "The cost efficiency and communication effects associated with brand name exposure within motion pictures", unpublished master's thesis, West Virginia University. Since the thesis is unpublished, I have not managed to get a copy of it, but I have seen this definition (as worded in the quote) in two sources: Babin, Laurie A. and Carder, Sheri Thompson, "Viewer's Recognition of Brands Placed Within a Film", *International Journal of Advertising*, 1996, 15:2, p. 140 and Loiacono, Eleanor T., Taylor, Nolan J. and Watson, Richard T., "Web Advertising: Alternative scenarios to the banner years", 2001.

¹⁵ Babin and Carder, p. 140.

¹⁶ Russell, Cristel A., "Toward a Framework of Product Placement: Theoretical Propositions", *Advances in Consumer Research*, volume 25, 1998.

dimension, although it does not work entirely on the same level as in a film. When reading a novel, there is a different action, and, I assume, a text is perceived rather differently than a film is. This consideration aside, I do think that the categorisation can be of use when discussing product placement in literature. In a novel, both screen placement and script placement will mean that the reader reads about the product, and that the product is mentioned outright. However, it is the dialogue that makes the story move forward. A background description is, I think, more likely to be skimmed over by readers. It was, and is, a trick for an author of serials to, at a critical moment, write long descriptions of something only marginally important in order to make the reader keep reading, and thus a) creating excitement and b) getting paid for more pages. Thus, I think that screen placement will be a more subtle way of product placement than script placement also in literature. The least subtle way of product placement in literature as well as in film is naturally plot placement. Plot placement in literature will not have two dimensions to combine, but it will still be less subtle than both screen placement and script placement, since not only will the references be to a brand instead of a (generic) product, the plot will actually (at least partly) develop around a brand.

3.2 Some matters of principle

3.2.1 Restraint of form as a means for increased creativity in modernism

Creativity does not only spark when the artist has complete artistic freedom, if, at all, that is possible. Some restraints can be used as means for increased creativity. This is not as contradictory in terms as it may seem. During the 20th century, countless experiments with form restraints have been made, and some of them very successfully so. A recent example of this is the French author Georges Perec, who wrote *La Disparition* (*A void*), a novel, entirely without using the letter “e”, the most common letter in the French language. The theory behind this was founded in modernism. The restrictions of form may trigger the artist’s fantasy so that creativity increases instead of decreases. A restraint can work as a starting-point, without which the art piece may never be created. A former teacher of mine once gave us the advice, if we wanted to write poetry, to first write a poem (literature students should manage to write a rather bad poem, but still) and then change all nouns to the third noun above in a Swedish wordbook. The result? A better poem! This can of course be ridiculed. But still – restraints do not have a bad side only. They can foster the mind into greater adventures with content. It is also important to remember the strict metre rules that were “in force” until the free verse took over to a very large degree. This was not seen as something bad – it was seen as a challenge. Also, the special rhythm of the metre in question contributed (and contributes, in the cases where it is still used) vastly to the reader’s experience.

3.2.2 Classicists versus romantics

Whereas classicists believe in hard work and study of old works, the romantics cultivate the idea of divine inspiration. Naturally, for a romantic, the mere notion of any kind of restraint seems ridiculous. The artist is not a creator, really, only a writer, or a typist, who writes as quickly as possible what is transferred to him or her. On the other hand, for a

classicist, form restraints can make sense in another way. They can be seen as tools and/or enablers, just like any other tools the artist uses.

3.3 Product placement as a feature in literature

It is interesting to note that since we live in a world where trademarks are of increasing importance, which is mirrored in our increased use of them in our day-to-day lives, product placement in literature would not seem as odd as it would fifty years ago. We live in a branded world, and it shows. As art reflects the world, it is only natural that as the world and our society change, so does for instance the way in which we refer to things. Compare for example the Swedish popular books by Merri Vik about Lotta, which were written some fifty years ago. She loves chocolate and eats it often. However, the reader's only knowledge as of which chocolate she eats is if it is plain milk chocolate¹⁷, nougat chocolate¹⁸, toska chocolate¹⁹ or walnut chocolate²⁰. Sufficient and relevant information for the reader back then, and also natural for an author to mention – it is the flavour that matters, right? I have found a later example, though. In the eighties, in an American book about Melanie by the author Ann M. Martin, *Just a Summer Romance*, the reader is informed that Melanie has a sweet tooth, and when she is reading her Agatha Christie book, she eats M&M candy. She also asks her little brother to run an errand for her and buy her M&M candy.²¹ Here, the actual trademark is important. Generic candy or candy of another brand will not do. The trademark conveys not only a meaning of a specific flavour, but also a part of a lifestyle. Thus, if another product is bought, you will buy no lifestyle at all, or, worse yet, another lifestyle! This change from the naming of flavours to naming of actual trademarked products means that the mere fact that trademarks show up in literature does not seem odd or out of place. I realise that I have not made any study of this: my examples shall be seen as they are, namely just that. Naturally, generic references are still made. However, I do not think there is any doubt about the trend as such. Brands were very seldom, if at all, mentioned for not so many years ago, and today, it is not at all uncommon to actually name brands.

This will facilitate the use of product placement, since naming of products already exists (not everywhere, but somewhere). Therefore, a reference such as “my Bulgari necklace”²² instead of “my Egyptian piece” does not seem odd. The idea of giving a thing a name based on the brand instead of a more descriptive name is becoming quite common in everyday language as well. Important to note: Bulgari definitely stands out. There are one or two references to other brands, such as a perfume brand, but in a way it had seemed more natural to use other brands, too. Why is Doris Dubois' beautiful dress, for instance, described in colours only as it is in the novel, and not by its brand?

Also, I would like to point out that using “Ferrari”, a brand, instead of “sports car”, which is just a general description, somehow adds brightness to literature. It is a little far-fetched, but I think that this can be seen as a result of the writers' recommendation to

¹⁷ Vik, Merri, *Platt fall, Lotta!*, Falun (1975), p. 119.

¹⁸ Vik, Merri, *Skriv upp det, Lotta!*, Falun (1987), p. 5.

¹⁹ Vik, Merri, *Vilken vals, Lotta!*, Falun (1973), p. 23.

²⁰ Vik (1973), p. 22.

²¹ Martin, Ann M., *Bara för en sommar*, Falun (1989), p. 8.

²² Weldon (2001), p. 119.

show, not to tell. If you mention the actual brand name, you set the scene more vividly in the reader's mind than if you only mention what it was. On the other hand, not mentioning the actual brand leaves more space for the reader's fantasy.

3.3.1 *The time aspect*

Bill Fitzhugh, the author who included references to Seagrams, defended himself by saying that he actually did not change the novel in any significant way in order to include references to Seagrams. He initially asked many companies if they were interested. On his shortlist, there was one fast-food chain, a cosmetics company and a liquor distributor (Seagrams). The choice was easy. "For reasons of artistic integrity and pure laziness I wanted a product that was already in the book. I felt this strategy would shield me from accusations of writing to accommodate a 'sponsor', while simultaneously saving me the trouble of writing any new pages."²³ What he did was thus only to exchange references to generic drinks to different Seagrams products. Also, he stresses the fact that the novel is ridiculing advertising, thus, he uses the product placement to create an ironic effect. This means that product placement is not solely something evil; as Fitzhugh has shown, it can contribute to literature, too.

Here, the time aspect is of importance. Fitzhugh made the deal about product placement after the novel was written (or at least almost finished). Weldon made the deal before the novel was written. Naturally, this will have implications for the artistic freedom. If the novel is almost finished, product placement will not restrict the artistic freedom much, unless the novel is completely rewritten. To exchange generic references to brand references does not, generally, fundamentally change the character of the novel.

3.4 Conditions for successful product placement in literature – the commercial perspective

3.4.1 *Content*

The first condition for a successful product placement concerns the kind of product that is placed. In *The Bvlgari Connection*, that product is jewellery. It seems quite natural in the book – after all, women in general like beautiful necklaces, so it does not seem improbable that descriptions of a jewellery shop as well as detailed descriptions of some very beautiful necklaces are included in the novel. It is probably easier to product place luxurious products such as jewellery, perfume, designer clothes, exclusive cars, watches etc. Why? Because most people have a certain yearning for them. The above-mentioned examples are also the kinds of products that are normally product placed in films. A term used in this context is brandfit, i.e. a match of the brand of the product and the brand of the film²⁴, or, in this case, the author would be the most appropriate, not the novel as such.

²³ Fitzhugh.

²⁴ Norman, Eva and Persson, Maja, "Företags motiv till produktplacering i film", 1999, p. 26.

3.4.2 Style and format

The second condition for a successful product placement is that the product must match the style of literature in which it is placed. I believe that product shall be placed in novels, not in dramas, poetry etc., in order to achieve the best results. Novels are (almost always) narrative in style, and since it is prose, references can be made without it seeming either obvious or tacky. But each novel has its distinct, unique style. What would sound natural in one novel might seem totally out of place in another. I also think that it is an advantage if the novel is somewhat witty, as *The Bvlgari Connection*, or ironic. In today's world, it is not too good to take oneself too seriously, which could be the case for a brand if included in a novel without any sense of humour.

The third condition is that the format shall be readily accessible to the public. Therefore, the novel should not be too long, in which case many readers might consider the novel boring and tedious.

3.4.3 The author

The fourth condition for a successful product placement concerns the author. A debuting author should not be used when placing products, for two reasons: a) the author is likely to be insecure and affected in style and other writing features and b) there is no way of predicting how successful the novel will be. The author should ideally be recognized as a good author (having good writing skills facilitates writing a good novel although a product placement is included) and sell many novels, in order to reach a wide audience, thus making the product placement worth the investment.

In this context, though, it is important to remember the theory of the "local experts". These are the people who other people turn to for book recommendations, film recommendations and so on, because they have a reputation of being knowledgeable within a specific area. Normally, there is one or two local experts for each field in each social circle. They function as intermediaries, i.e. they read the book, for instance, and if they like it, they can be of great use in a marketing campaign, since other people will use the product, too. Thus, even literature of a more specialised kind could get the possibility to use product placement. Of course, there is a big but here. Only if these key persons can be reached by placing products in the novel in case will this solution be of interest to companies.

3.5 Effects of product placement on literature – the societal perspective

It is very hard to predict what effects product placement might have on literature; the best I can strive for is to make educated guesses. I think that novels that contain product placement will be written, consciously or not, for a wider audience than might have been the case if there were no such restraints. The restraints would be implied rather than expressed, I think, but I do think they would still be there. This is because in order for product placement to be successful, the audience must be quite large and thus the novel cannot be directed to an exclusive *clique*. This, however, need not necessarily be either good or bad: clarity is likely to increase, for instance, but the novel is also likely to be less "literary", i.e. have any demands on the knowledge of the readers in terms of

context(s), literary history, allusions, criticism and so on. There is an example in *The Bvlgari Connection* that annoyed me as a reader, although the reason may not be the product placement. Despite the descriptions on p. 152-153 and p. 211 about how a certain portrait changes for the worse, it obviously has to be spelled out quite blatantly on p. 217 that the reference about the changing portrait is to *The Portrait of Dorian Gray*. I suspect the reason for this could be to widen the circle of readers who “get it”. Some readers might not even get it after the reference has been made, though.

3.5.1 Influence on content

One risk with product placement is that it will actually influence what is published and what is not, i.e. influence what is considered a) suitable for product placement and b) suitable to accompany texts that include product placement. This may seem a little far-fetched, yet, this has happened in another context.

In 1997, Chrysler, one of the five largest advertisers in the U.S., sent letters to one hundred newspaper and magazine editors demanding to review their publications for stories that could prove damaging or controversial. ‘In an effort to avoid potential conflicts, it is required that Chrysler corporation be alerted in advance of any and all editorial content that encompasses sexual, political, social issues or any editorial content that could be construed as provocative or offensive.’ According to a spokesperson at Chrysler, every single letter was signed in agreement and returned. This kind of editorial control is widely, quietly practiced throughout the industry.²⁵

If product placement is only available for some kind(s) of literature, that literature will have a financial advantage compared to other literature. Thus, there is a risk that such literature will be more commonly available and/or read, whether it has the merits for it or not. An example from the film industry is Volvo: Volvo only wants its car product placed in family films. It is not certain if this will be analogous to literature, but I think that it is likely. Volvo also has moral principles that are reflected in how the product is placed: a dishonest person may not drive a product placed Volvo car.²⁶ However, moral principles, valuable as they may be, do not match well with either artistic integrity or artistic freedom. It is understandable, though, that a company wants control over how their product is used, but restrictions like these may lead to the choice (if there at all is any choice in the matter) not to use product placement in a novel. If worst comes to worst, product placement will lead to conformity; many companies share at least some core values, and there are many values (some would consider those anti-values) that are not considered good by any company, although an author may still have a reason to emphasize such values. I see a risk especially with family-orientated values such as the ones Volvo embraces. These are values that are shared by so many people, yet, they are not the only way to live and if literature becomes largely influenced by such values, there will likely be less acceptance for people who do not conform to such norms, even when their non-conformity is completely harmless. Literature has functioned as a source for alternative role-models, an outlet for frustration and much more, and if product placement will become common, I see a risk that such literature will not get any funding. That said,

²⁵ Lasn, Kalle, *Culture Jam* (1999), p. 35.

²⁶ Norman and Persson, p. 22-23.

I do not think that literature will become funded solely or even almost solely by product placement anytime soon in Sweden. If anything, I think product placement will become a complement for funding, but that alternative will be available only to a very limited number of authors and texts by such authors.

3.5.2 Influence on style and format

I consider *The Bvlgari Connection* very easy to read, which may or may not be a consequence of the product placement. However, I have read other texts by Weldon and I do consider her writings in general to be easy to read. This is not to say that her texts are banal in any way; I do not think that there is an inherent conflict between “easy to read” and “good literary work”, but, for another author, it *could be* a means of restriction. The format is also quite short (220 pages), and I do think that this facilitates product placement as well, since many people do not like to read long novels.²⁷

3.6 Is product placement in the interest of literature? – a societal perspective

It is possible to change the tables: product placement *could* facilitate artistic freedom, meaning that the product placement frees the author from other restraints on their artistic freedom, but only in some cases and only if certain conditions are met.

3.6.1 The reception problem

Fay Weldon claims that there was no editorial control about what she wrote from Bulgari. Instead, she was free to say whatever she wanted. Although this may very well be true, in *The Bvlgari Connection* there is nothing bad said about Bulgari, jewellery or the industry in itself. I think that although she was not controlled, it would have felt strange for her to include something negative of that kind in the book. Even if there are no written rules, I think that it would have made both Bulgari and herself uncomfortable if she had broken that unwritten rule. However, an author is not, generally, free to write whatever they want, either. They “have to” consider the reception of the book, both from critics and readers. This is especially important for them if they are dependant on the income from the book. Fay Weldon actually claims that she felt more free than usually when writing *The Bvlgari Connection*: “as I began to write, I was surprised to find that I felt set free. Free from the opinions of publishers, critics and reviewers, and the expectations of readers – all of which, it seemed to me, can weigh a writer down no end.”²⁸ Thus, product placement can, if it becomes a complement of funding literature, be a way of giving the author more freedom in other aspects. This will of course only be true if either the author

²⁷ An outstanding exception: the Harry Potter books, which are getting longer and longer. *Harry Potter and the Goblet of Fire* was 752 pages long, and *Harry Potter and the Order of the Phoenix* will be 768 pages long (although almost one third longer in terms of number of words). From “Harry Potter and the Order of the Phoenix Publication Date Announcement”, Bloomsbury Publishing Plc, collected from <http://www.bloomsburymagazine.com/harrypotter/wizard/section/news.asp?s=1&pagenr=1> on the 1st of March, 2003.

²⁸ Weldon, Fay, “A writer’s gem”, collected from <http://www.theage.com.au/entertainment/2001/12/24/FFXRDBR4LVC.htm> on the 20th of June, 2002.

has complete artistic freedom, i.e. there are no contractual provisions about what the author may or may not write, or the agreement about product placement is made after the novel is written, and the author only exchanges generic references to brand references.

3.6.2 A wider scope of literature

Product placement could be a possibility for literature that otherwise would not get funding to get published. This could be especially true for literature with a small, yet closely connected audience in mind, which caters a special interest. If that audience has large purchasing power, and/or is a target audience for a certain product, a novel or similar could get published by means of product placement. This could be profitable, provided that such an investment is possible to recoup, and it is not impossible to imagine that in certain cases product placement would be well-spent advertising money.

3.7 Product placement versus other means of advertising

3.7.1 The commercial perspective

Product placement is a way of getting closer to the customer. This is especially true for books. A reader will not stop reading if there are interwoven references to different products – it is not as easy to skip a couple of pages in a novel as to browse through a magazine and skip the commercials, or to zap to another channel when the channel that is currently viewed is showing commercials. A book is a coherent text, and must be read as such. Also, as Michael Nyman of Bragman Nyman Cafarelli, a public relation firm, points out: “It is a more personal relationship with a book. You can curl up on a chair with it, you read it before you go to sleep. It is very near and dear.”²⁹ As the world of commercials and brands evolve, so do the ways in which products are manifested.

3.7.2 The societal perspective

Advertisers are seen as very biased, which of course they are. However, I think that there has been an almost singular focus on the biased nature of commercials. This is a personal point of view, and I shall try to explain myself. Human beings are not capable of being objective, as I wrote in footnote 3 above. What we can do is to hear the other side(s). In order to reach a state near to objectivity we need to obtain information from as many different sources as possible, with different tendencies³⁰: value it and be aware of its origin, its context, the problems with the information and so on. Critical thinking is so important! There can be very much information drawn from the most biased of texts, even information that is negative for the sender, if the reader is sufficiently skilled. This is why I think that it is of utmost importance to focus on this in schools, which in many cases is rather unusual today. I do not think that our world will go back in the sense that

²⁹ St. Clair, Jeffrey (ed.), [CP-List] Fay Weldon: Corporate Novelist, 5 September 2001, collected from <http://counterpunch.org/pipermail/counterpunch-list/2001-September/013074.html> on the 20th of June, 2002.

³⁰ With tendency I mean, in this context, the following wordbook definition: The general course, purpose, or drift of something, especially a written work.

there will be less brands and commercials. Instead, everything seems to point in the direction that brands will become more and more important. Thus, if we cannot change this development, we must learn how to deal with it.

3.8 Will product placement become common in Sweden?

This is of course a question that is hard to answer. I have chosen to make a small discussion on the subject, lest the reader finds this essay too far-fetched from a Swedish perspective. I do not think it will become very common in the near future; however, there was a similar project planned. Bjarne Sellin took the initiative to try to make a project, Freepocket, come real. The idea was that books of famous authors should be given out for free. The catch was meant to be that the book would have commercials in it, and paid for that way, thus work in the same way as the very successful Metro project.³¹ The project was meant to be realized by the summer of 2002. To this date, the project does not seem to have been completed, but this does not mean that it (or a similar project) never will. Commercials in literature will impact literature as well. Many of the conclusions regarding product placement, especially those concerning influence on content, would be most relevant in such a context, too.

3.9 The Bvlgari Connection

Fay Weldon has skilfully interwoven 34 references to Bulgari in *The Bvlgari Connection*. There are also several references to jewellery in general, more than what this novel requires, I think. This is achieved by having two beautiful necklaces play a part each, one portrait of a woman who is wearing one of said necklaces and one nice shop assistant at Bulgari. The associations work to create a certain kind of magic. The references to jewellery in general work well for achieving subtlety, yet repeating the message. For instance, in the end of the novel, one of the Bulgari necklaces, earlier always referred to as such, is referred to as an “Egyptian necklace” two times.³² When the reader has read that far, the reader *knows* that the Egyptian necklace is the same necklace as the Bulgari one. Thus, Weldon goes one step further and creates a mental picture in the reader’s head where Egyptian necklace equals Bulgari necklace. The choice of “Egyptian” as an adjective further increases the good connotations Bulgari has. “Egyptian” sounds intriguing, classic, classy ... exactly such qualities that Bulgari would like to associate itself with.

If compared to Russell’s categories explained in section 3.1.1, “Different classes of product placement”, *The Bvlgari Connection* has examples of all three kinds of product placement. Example of a screen placement: “[c]lasp[ed] around her neck, falling in roundels of bright colour against her firm, creamy skin was a Bulgari necklace”³³. Example of a script placement: “I want a real Bulgari necklace with a bit of colour in it.”³⁴ The plot placements are done very ingeniously: two necklaces from Bulgari and two

³¹ Berglus, Harald, “Reklam ska ge gratis pocketböcker”, *Dagens Nyheter*, 2001-11-01.

³² Weldon (2001), p. 206 and 209.

³³ Weldon (2001), p. 21.

³⁴ Weldon (2001), p. 36.

portraits where the person who is portrayed wears a Bulgari necklace and one very nice sales person from Bulgari all play parts of various importance in the plot.

3.9.1 *Product placement or a commissioned novel?*

Fay Weldon herself does not regard *The Bvlgari Connection* as a product placement novel. Instead, she says that it is a commissioned novel about Bulgari.³⁵ However, I must reject her opinion. It is not a book about Bulgari. It is a novel where two necklaces from Bulgari play a not so little part. But it is very clear that this is fiction. If it had been a book about Bulgari, its history etc., I doubt very much that HarperCollins would have published it for a larger audience (it was initially meant to be made in 750 copies only and given out as gifts at a dinner celebrating the opening of a new Bulgari store³⁶). The book is also characterised as fiction by HarperCollins. A spokeswoman for HarperCollins has said that the publishing firm “would not have touched the book if it had not had literary merit”.³⁷

3.9.2 *Reader reactions*

I have not been able to include a study of my own concerning reader reactions to the product placement in *The Bvlgari Connection*. Instead, I have been using the Internet as a tool and studied “user comments” and other reviews written by non-professionals. So far, there are not that many comments, but those that exist seem to agree that it is a well-written book, not an advertisement, although it was originally written for a very small audience, and with a commercial, not literary, purpose.

One reader states that “Fay Weldon's work, regardless of financial backing, is not factory-farmed like so much popular literature”³⁸, a statement with which I agree. Note that the popular literature referred to has most likely not included any product placement; yet, it is considered “factory-farmed”. Another reader, who was appalled to see that literature is no longer the last bastion, free from commercials, thought that the book was up to Weldon’s usual standards.³⁹ A third reader thought that this was one of her best books.⁴⁰ This can be seen as at least an indication that product placement does not by its very nature harm a book, or at least make it impossible to write a good book. However, I personally am convinced that products cannot be placed under just any conditions if the resulting book is to be good. I think that one of the reasons that Weldon succeeded so well in writing the book is that there is a correspondence between the desired object

³⁵ E-mail from Fay Weldon to me on Wednesday the 3rd of July, 2002 10:52:35 +0100.

³⁶ Weldon (2002).

³⁷ St. Clair.

³⁸ User comment from www.amazon.com: Marcia Mardis, “She's no one's commodity”, December 16, 2001, collected from http://www.amazon.com/exec/obidos/tg/detail/-/0802139302/qid=1044366789/sr=8-1/ref=sr_8_1/002-5241034-7586430?v=glance&s=books&n=507846 on the 4th of February, 2003.

³⁹ User comment from www.amazon.com: A reader from Colorado, “Corporate Authors”, November 27, 2001, collected from http://www.amazon.com/exec/obidos/tg/detail/-/0802139302/qid=1044366789/sr=8-1/ref=sr_8_1/002-5241034-7586430?v=glance&s=books&n=507846 on the 4th of February, 2003.

⁴⁰ User comment from www.amazon.com: A reader from Berkely, “One of her best books”, August 9, 2002, collected from http://www.amazon.com/exec/obidos/tg/detail/-/0802139302/qid=1044366789/sr=8-1/ref=sr_8_1/002-5241034-7586430?v=glance&s=books&n=507846 on the 4th of February, 2003.

(jewellery) and the plot. Weldon's witty style is also very appropriate for writing a book like this. I think that Weldon could write other books where products are being placed, but only as long as the placed product can be fitted into her special style and topics.

3.10 Kellogg's Froot Loops! Counting Fun Book and similar "books"

In the U.S., there are nowadays many (best-selling) books for children that supposedly teach children how to count and similar basic skills, with the help of branded food such as cereals, cookies and raisins. The products are literally inserted in some of the books. The author does not get paid by the owner of the brand, but instead pays a licensing fee to said owner.⁴¹

I see several problems with this kind of product placement, if indeed, this can be labelled product placement; I would much rather call it pure advertising. First, the author does not get paid from the brand owner. This means that basically no advantages can be seen from a societal perspective (no extra money that could generate a more varied development of literature etc.). In my opinion, the money definitely goes in the wrong direction here. Although, I realize that for these brand owners, these deals must be seen as the best kind of deals they could get. Not only do they get advertising, and reach target markets that are restricted to them in several ways, but they are the ones getting paid for it, too! I also see a problem in that these books are directly targeted at small children as young as 4-5 years old. Product placement in the other novels that I have discussed, *The Bvlgari Connection* and *Cross Dressing* are targeted at adults.

3.11 Beyond product placement

As is discussed above, product placement in books is always somewhat blatant. However, there are other, subtler means to create positive connotations to a product without actually having to mention it (except for the first time). Skilful authors can find many ways to do that. I believe that Fay Weldon has done so in *The Bvlgari Connection*. She is using the alphabet to show a person's success, rather playfully, but still. One of the main characters, Grace, is playing with her names: she was originally called Grace McNab, then, when she married, she became Grace Salt (which, Weldon cleverly lets us understand, is a step down) and finally, when her former husband, or rather his new wife, wants her to, she changes her name back to her maiden name: Grace McNab, which is definitely a step up for Grace. The other main character, Doris Dubois, has changed her name in secret from Doris Zoac, "right down there at the end of the alphabet where no-one looks except the taxman, and had changed it by deed poll the better to further her media ambitions".⁴² Here, Weldon clearly states that it is a good thing to be in the beginning of the alphabet. To spell it out, surprise, surprise, Bulgari is in the beginning of the alphabet. Note that this takes place right in the beginning of the novel; when Bulgari is introduced, the notion of the beginning of the alphabet as something good is already established. Naturally, there could be other reasons behind the alphabet reasoning, but an

⁴¹ Kirkpatrick, David D., "Snack Foods Become Stars of Books for Children", *The New York Times*, the 22nd of September, 2000, collected from <http://www.nytimes.com/2000/09/22/business/22TODD.html> on the 12th of February, 2003.

⁴² Weldon (2001), p. 4.

author, especially one who is as experienced as Fay Weldon, seldom does anything without a reason, and this is a reason that is close at hand. This can be seen as somewhat unethical, since although the constructions are visible for an experienced reader, they certainly may escape many an inexperienced reader. Also, the subtlety involved makes it hard to know anything for sure. First, everything an author writes does not necessarily have any significance, especially in a novel. Second, even if something does have significance, it is not certain that the significance in question is to create good connotations to a brand.

3.12 Product placement in literature versus product placement in film

Since there so far have been very few examples of product placement in literature, a comparison might seem hard to make. However, due to the inherent characteristics of literature versus film, some conclusions can be made nevertheless. The book as a form does not have the same possibility for the reader as for the viewer to focus on different things. Naturally, not all readers read all parts of a book or different books as thorough, but if you are to read a book, you will read it all, more or less. If you view a film, you will see it all, of course, but you will not see all details of the entire picture all the time.⁴³ Therefore, product placement in literature will by its very nature always be somewhat blatant.

One of the consequences of these differences is that it is unnecessary to conduct market research as for how many readers who recognize the product. The normally attentive reader should do so, whereas the normally attentive viewer might not do so. This means only that the reader has recognized that the product was there, not that the reader knows what the product is. However, should an author include a product name that is unknown to most, an explanation would be necessary. Whereas authors do not hesitate to use words that not everybody understands, I believe they would be very reluctant to use product names that are unknown, without adding an explanation.

3.12.1 The money issue

Product placement in film is since long regarded if not unavoidable, almost necessary, due to the high production costs of a film. This means that the producer gets money from several different sponsors, and very much money too. The production costs for a novel are not as high as for a film. See more about this in section 2, “Background: Conditions of production for literature”. A consequence of this is that product placement will never be as important for literature as for film, and thus, product placement will neither have a very large impact on literature, nor will literature come under huge pressure from the conditions of product placement.

I think it would be harder to have more than one product placed in a book than in a film, since the placement is more obvious and creates more trouble for the author. In films, many things and thus products are often going to be there, no matter what. After all, human beings of today tend to surround themselves with things, so it is simply a

⁴³ Especially not in the films where the screen is divided in four or more parts, where the aim is that the viewer shall not see it all!

question of whether or not the director shall have the right to choose the brand of cereals him- or herself or if one specific cereal producer shall pay to be the chosen one. In books, on the other hand, it is more far-fetched to feature products, although not as far-fetched as it would have been fifty years ago (see more about this in section 3.3, “Product placement as a feature in literature”).

3.12.2 *The breakfast scene example: abstract versus concrete level*

In order to illustrate the differences of the abstract and the concrete level, I have chosen to discuss the example where an author and a director shall write and direct a breakfast scene, respectively. I chose this simple example in order to make the principles easy to understand, and although my conclusions may seem far-reaching for a breakfast scene, they are not so far-fetched if transferred to a more complex scene or situation - the principles are the same. An author has two basic choices when describing a breakfast scene: to describe it on an abstract or concrete level. The author might not wish to stress exactly what kind of breakfast the main character eats, and thus choosing the abstract level. S/he can write, for instance: “Emma ate breakfast in haste and left for school”.⁴⁴ The author can also choose to write: “Emma ate cereals with milk in haste and left for school”, thus choosing the concrete level.⁴⁵ There are different literary implications of these choices, but this is not the place to discuss those at length. The important thing to note is that *there are* different literary effects of this (actually) important choice, and the author, in order to maintain his or her artistic freedom, has to keep this option open. However, if a director wishes to show that the main character had breakfast, s/he *has to* choose which kind of breakfast the character has and display it. The option of describing the breakfast on an abstract level is closed.⁴⁶ Thus, whether it is cereal or toast, porridge or eggs and bacon, there are always potential product placements in breakfast scenes in films, provided that breakfast scenes are to be included.

Concerning the artistic freedom, this has the consequence that the artistic freedom is regulated to a larger degree for the author than the director. The author has to, in order to create a product placement, refrain from using one of his or her main options: to write on an abstract level. For the director, there is no such sacrifice either possible or necessary.

3.13 **Product placement agreements - the commercial perspective**

Product placement agreements shall be written in order to obtain the best and possible benefits from such agreements while still conforming to the law, ensuring that the conditions for a successful product placement are met (the interest of the company), and that the artistic freedom is as large as possible (the interest of the author).

⁴⁴ One simple example of when such “secrecy” can be a good choice is in detective stories. Maybe the character ate something that was poisonous (in itself a good reason not to use product placement of that item!), and this is to be revealed further on in the story. Or the author may want to imply that the character does not find any pleasure of eating anymore: any old breakfast will do.

⁴⁵ Maybe this specific breakfast will have implications further on in the story. Because the character ate cereals, her grandmother has to go out and buy cereals, and on her way to the store, she breaks a leg.

⁴⁶ This is one of the big limitations of the film medium – it is hard (but not always impossible) to describe things on an abstract level as well as thoughts etc.

Although this is a new phenomenon, there are already guidelines available on the Internet about how a product placement agreement in literature should look. Michael I. Rudell has written an article on the subject, “Branding Agreements in the Literary Publishing Industry”⁴⁷, which I will use as a starting point for this part of my essay, although it is written from a U.S. perspective. As is suggested from the title, Rudell considers this agreement a branded agreement between the company that wishes to get its product or itself placed in the novel (“the entity seeking to be identified in the novel”) and the author. Rudell considers the publishing agreement a starting point. However, this publishing agreement that he refers to is a form agreement used in the United States, and can therefore not be used “as is” in a Swedish perspective. That said, some of the clauses that Rudell discusses are still relevant. It is important to note that unless a company covers all publication costs of a book, in which case the entity seeking to be identified in the novel will be the publisher, too, there will be two agreements: one agreement between the author and the publisher and one agreement between the author and the entity seeking to be identified in the novel. The relation between these two agreements is important to consider. They have to be both complementary and corresponding.

3.13.1 The agreement between the author and the publisher: the publishing agreement

In this context, the most important aspect to regulate concerning the product placement (it is an addition, and will not change the art and nature of a usual publishing agreement) is the acceptability clause. This is a clause that gives the publisher a right to ask for revisions and/or reject the manuscript, if not satisfactory, editorially or otherwise. Rudell expresses concern that a publisher may deem a manuscript unsatisfactory if the author has included references to a product or service in return for compensation. In order to avoid such problems, this should be anticipated in this agreement. An amendment to the usual acceptability clause could be made in every specific case, stating explicitly that a publisher does not have the right to deem the manuscript unsatisfactory if the author has included references to a product or service in return for compensation in accordance with the product placement agreement between the author and the entity seeking to be identified in the novel. This would also still give the publisher the right to deem the manuscript unsatisfactory if references to other products are made.

3.13.2 The product placement agreement

I think that the author should have an obligation to inform the publisher about the product placement before such an agreement is in place, in order to give the publisher the right to refrain to publish the book on that ground. Since product placement in literature is controversial, a publisher could want to refrain from publishing any books containing product placement in order to try to minimize commercial impact on literature.

In the product placement agreement, there must be clear and precise provisions about the art and number of references, in order to give the publisher a fair picture of what implications this will have on the author’s work, and thus giving the publisher the

⁴⁷ Rudell, Michael I., “Branding Agreements in the Literary Publishing Industry”, collected from <http://www.fwrv.com/articles/artrud27.htm> on the 20th of June, 2002.

possibility to accept or reject the manuscript on these grounds solely even before the manuscript is written. Rudell mentions minimum and art, but not maximum. Also interesting would be if this part of the contract should be restricted to references. Weldon has gone one step further in *The Bulgari Connection*, by including two Bulgari necklaces in the plot. This is of course an option, and there are other literary devices that could be used as well. Solely the mentioning of the product surely seems somewhat rudimentary, when there are so many other sophisticated ways to call the reader's attention to the product. On the other hand, not regulating anything but the number of references would ensure the artistic freedom of the artist to that point, at they very least. Also interesting could be if the author has the right to include references to other brands, whether or not being compensated for this.

Naming a brand alone is not sufficient for successful product placement. It is also important which connotations are created around it. This can be achieved by placing it in the right context in a novel with the right content.

After this novel is out there, the author, and the entity seeking to be identified in the novel, loses some control of it. Any novel gets a kind of life of its own. As it makes its way throughout the world, it will become a part of our common cultural heritage and if good or interesting enough, there will be parodies of it, references to it and so on. This can be good or bad for the entity seeking to be identified in the novel. Author Elizabeth McCracken gives an example: What if the Garden of Eden was brought to you by PepsiCo? And that cola bottle was still around when Cain found it and killed his brother? "Wouldn't PepsiCo complain that they'd asked to be included in the good part of the creation, back when everyone was naked and thirsty, but that murder by beverage was not part of the agreement?"⁴⁸

The novel can never be seen as an isolated text; it will always interact with all the other texts that are out there. The novel can be quoted, even if the quote includes a reference to the brand, which may or may not be a good thing for the entity seeking to be identified in the novel. This cannot be regulated, and it is important that all contracting parties understand this. I do not think that quoting would be considered illegal just on the basis that a brand is mentioned; however, quotes will be subject to the laws about trademark infringement, but I do not think it could be stopped in all cases at all, quite the contrary. There may also be sequels. This must be taken into account when constructing the original agreement. If the brand is important for the first novel, the author may want to have the right to use it (or not use it) in sequels, too.

If the novel is translated, which can happen, there could be a provision about the brand name not to be translated, or provisions about how it should be translated. This is important for some different reasons. Some brands do not go by the same names in all countries. Also, one novel that may work very well in one country and its cultural settings, can be regarded as offensive in another. The same is true for the connotations connected with the trademark. It is also problematic to control that the translation does not, on purpose or not, take on quite a different meaning.

The clauses discussed above are not an exhaustive list of clauses that need to be included, but they are examples of especially important issues in product placement agreements. As always, it is important to think about these issues before, rather than after.

⁴⁸ Rose.

3.13.3 The agreement about *The Bulgari Connection*

As I have explained above, I was not able to see the actual agreement about *The Bulgari Connection*. Nevertheless, I have taken the bits and pieces of this agreement that have been made public and put them together to get an as clear picture as possible of the agreement. I have gotten the impression, due to the low number of provisions that have slipped out one way or another, that the agreement was a fairly short and rudimentary one. Another possibility is of course that the agreement was fully outlined and that the secrecy has been so good that they have managed to keep large parts of the agreement secret. However, the big hush-hush has been about the sum, and even there, there are rumours stating it on the Internet, which in my opinion is a sign that there were actually not that many provisions at all.

It should be a work of fiction and consist of 90,000 words.⁴⁹ This shows that Weldon did not have the artistic freedom to write how short or long as she might have preferred. However, this format, 220 pages, is close to what in Sweden used to be called “the book-club format”, that is, not too heavy and suitable for a month’s reading.

According to the agreement, Bulgari should be mentioned a dozen times⁵⁰, and there was no provision that it should be mentioned in the title. However, the resulting book has 34 references, which far outweighed these twelve provisions, AND the title is after all *The Bulgari Connection*. I assume that this number was set to a minimum, meaning that Weldon had all the freedom to decide the number of references, as long as Bulgari was mentioned twelve times or more. My recommendation is not to put a minimum number of references only, but instead give one minimum number and one maximum number, thus leaving some artistic freedom to the author and at the same time ensure that the reader does not get so tired of reading the name of the company that the product placement becomes not only inefficient but also counterproductive. It is important to look for the accurate number of references in order to achieve the perfect shade of subtlety. In a film, you would not want the exposure to be too blunt, either. *The Truman Show*⁵¹ parodies product placement in some scenes, and since those scenes are funny, there is clearly a line which must not be crossed if the product placement shall succeed.⁵²

I am not so sure that the inclusion of the company name in the title was a good idea. In my opinion, Bulgari has a natural place in the novel, but it does not play such a big role that it merits the title. On the other hand, when I first heard the title, I thought it sounded intriguing. In fact, I think the title has contributed to all the bad publicity Weldon has gotten after the book was published. This shows that not only the number of references, but also the art of the references are important to regulate in a product placement agreement. The art of the references can also include provisions about whether the references should be made as screen placement, script placement or plot placement, or which combination of these that is desired.

⁴⁹ Weldon (2002).

⁵⁰ St. Clair.

⁵¹ *The Truman Show* (1998), directed by Peter Weir.

⁵² Although, it shall not be forgotten that an author with an ironic distance to both his or her subject and the product placement probably can make the product placement successful anyway, regardless of the number of references. However, this will not work for everyone.

3.14 A general discussion about story, content, brands and how they all work together

To sum up my previous discussion about product placement, I would like both to reiterate some important points and to spell out some previously implied conclusions. Any author creates a virtual world, a separate universe when writing, of varying qualities and imagination of course, but it is still a virtual world. This world is influenced to a large degree by the real world⁵³ but also by other virtual worlds. Some authors take this concept so far as to even construct a special language for their world, such as J.R.R. Tolkien. When creating, they use concepts, contents and stories used many times before them. It is this reuse of stories and content that makes some of the best literature timeless. We can today feel compassion for *Romeo and Juliet*, whether in its original setting or in other adaptations (using other media, such as film, or transfer the story to today, such as *West Side Story*). This is because the theme of love and the plot of two young people who love each other although their families are enemies are as relevant for many people in the Western society of today as it was some four hundred years ago. Although we may interpret texts most differently during different times, literature often has something to say to us even in another time and place context, even if it is not the same thing as was interpreted earlier (or later).

An indefinite number of virtual worlds: two examples are

Harry Potter world

Bulgari Connection world



↑ ↑ ↓ ↓
Content⁵⁴



Bertie Bott's Every-Flavour Beans

↑ ↑ ↓ ↓
Connotations

Bulgari jewelry



↑ ↑ ↓ ↓
Stories⁵⁵



Real world

An indefinite number of physical manifestations of virtual worlds: computer games, books, toys, DVD:s, Cd:s, clothes, perfumes and so on

⁵³ An example of this is the many images of God in different religions, which almost always seem to resemble humans. Probably there is an inherent limitation of fantasy in the human mind.

⁵⁴ See footnote 55.

⁵⁵ With story I mean the more strict definition as in sequence of events. However, in order to cover the wider definition of story, including plot, themes, motifs, archetypes etc., I have as a complement also used the term content, which shall cover that.

Stories and content move between the real world and virtual worlds, in both directions. A story and other content from the real world can be used in a virtual world and a story and other content from a virtual world can be used in the real world. Although it may be more common for stories and content from the real world to move into a virtual world, the opposite happens too. People do things in their own life because they have read about it or seen it on TV. Expressions used in commercials get used in ordinary conversations, such as “supernice” and “party party”. (Any Swede should recognize those expressions.) I am certain that the use of the word “potion” has increased due to the Harry Potter hype, an example of the situation where an existing word gets used more frequently than before due to influence from a virtual world. Also stories and other content are picked up.

This is inherent in our use of brands, and this is what happens with product placement. A brand from the real world (although the brand in itself is not “real”) is used in a virtual world, thus becoming a link between the real world and that specific virtual world, causing transmissions of values and connotations, resulting in branding. However, values and connotations are not always enough anymore. Since products on their own often do not differ that much, they must differ through other means. Sometimes, special “storymakers” are used in marketing, using a story, which is built around a product or a brand, as a strategy to sell something. The story has its part in creating connotations and values, but is also important in itself.

This can also happen the other way around. When the first Harry Potter book was written, it was not thought to become a success. But when it did, there was no hesitation to use some things that were already in the book, materialize them and commercialise them. An example of this is Bertie Bott’s Every-Flavour Beans. Although they were not product placed originally (since they did not exist in the real world at that time), they became “postproduct placed”. Now, when somebody reads the first book for the first time, it will be perceived as product placement for that reader. The advantage with this kind of product placement is that it will have no influence on the content whatsoever, since it was done after the book was written, much like the case with *Cross Dressing*, where generic references were exchanged for brand references.

3.15 Legal consequences of product placement

Product placement in literature has as a consequence that the line between commercials and editorial content becomes blurred. Normally, commercials and editorial content are considered different entities, which should be strictly separated. Legally, the difference between product placement in literature versus other means of advertising is that the legal constructions that are used today in Sweden are based on “ordinary” advertising, such as for instance the ban of TV commercials addressed to children below 12 years old. By using product placement, those laws are circumvented. This is especially disturbing concerning marketing to children. However, I do think that marketing through product placement in literature will have a lesser impact on children and others than product placement in films and TV-shows and similar, due to the power of moving images. It is important to remember, though, that brands are sold through several media nowadays, meaning that if marketed only through books, the impact might not be so large; however, if marketed in conjunction with other media (as is much more likely), the books could play a not so little part in the final media mixture.

4 Increased protection of literature: trademark protection and a wider scope of copyright

Intellectual property can be increased in different ways. I have chosen to discuss two ways of doing so under the same heading for two reasons: a) they have the same goal: to increase intellectual property and b) the consequences are very much the same. Many ingenious lawyers and other strategic thinkers have by now realized that a novel is not only a novel anymore. A novel is still a novel, of course, but it does not only function as a book anymore. Not only does a novel give you pleasure from reading it, or giving the literary scholar some challenges from analysing it, but it can also have a commercial purpose: to advertise, whether in the open form of product placement, or in the more artful form of a story. A story that is also being present in certain toys, trader cards, films, tapes and so on. The novel, in the latter case, is not only a novel, but a package like any other, with the aim of selling an idea. This idea is the same idea as is present in the story referred to earlier. Thus, the novel is, although not only, a package like the ones mentioned above.

The main rule is that intellectual property does not exist. In order to do so, there must be laws regulating this. However, even where protection is awarded, there are exceptions from said protection. Intellectual property can be seen as a conditioned monopoly.⁵⁶ The exception for copyright protection that is of interest here, in Sweden, is mainly the right to quote. In the U.S. law system, the exception that is of interest is the fair use concept.

Thus, there are two principal possible ways of diminishing the artistic freedom here and increasing the protection of literature: 1. Increase the protection that is awarded through a wider scope of copyright and/or trademarks and 2. Increase the protection that is awarded by decreasing the use of the exceptions to the protection.

4.1 Trademark protection

A recent trend in literature is to protect some names by registering them as trademarks in the U.S.A. Some examples are Nancy Drew (the name of a popular character in a children's detective series written by different people under the pseudonym Carolyn Keene) and Sweet Valley High (the name of the high school which the famous twins Elizabeth and Jessica attend). However, this development has already spread to Sweden to some degree. Nalle Puh and Winnie-the-Pooh are registered trademarks in some classes in Sweden. This means that others cannot use those trademarks for certain purposes; however, it should not under current laws be impossible to use the trademark in a novel.

For the authors (or rather their publishing firms), this has some benefits compared to copyright protection. Trademark protection can be renewed over and over again. Thus, trademark protection can be obtained ad infinitum, whereas copyright protection has a time limit. Also, the trademark protection does not have the exception for quotes.

⁵⁶ Steiner, Christine, "Intellectual Property and the Right to Culture", collected from <http://www.wipo.org/globalissues/events/1998/humanrights/papers/pdf/steiner.pdf> on the 29th of January, 2003.

4.2 A wider scope of copyright

Similar results can be achieved if copyright gets a wider scope. Although the right to quote would not vanish entirely, it would be diminished. And although the protection would not be infinite, it would still be protected for quite some time. A wider scope of copyright would also in many cases give protection to intellectual property that, if not a trademark, would not be protected at all. Copyright can be increased by increasing the time under which a work is protected and extending the definitions of what a work is.

4.3 Some matters of principle

First, I shall discuss some matters of principle, from a societal perspective. It is important to keep in mind that intellectual property is not something of God given, but a creation of humans, and throughout the history of the Western world, it has been, if existing, subject to severe practical restrictions. There are many reasons for this, one of them very important: the fact that intellectual property rights can restrain creativity severely. If existing at all, it must be seen as a loan from our common cultural heritage (and many people should do well to realize their own shortcomings; very few thoughts are new under the sun and although we often pride ourselves of originality, that is not so often the case).

4.3.1 *Our common cultural heritage*

“Culture reflects the common meanings of a society.”⁵⁷ Culture has since long been regarded as something common, something publicly owned. Since it is universal for a culture, it is hard to claim individual ownership and/or originality. This means that nobody can claim ownership to myths, legends and so on. The idea is that the artist has the right, and sometimes even an obligation, to use older material in new books, not only as a means of intertextuality, but as a means of protecting and passing on our cultural heritage. There is a long tradition in literature of using existent literature as a common treasure. “One cannot imagine Ovid’s family suing Aesop’s family, which in turn was not outraged by La Fontaine. /.../ Pillage is a one of the instruments of the fine arts.”⁵⁸ However, this view is shifting, at least from a business perspective. As Naomi Klein observes:

Artists will always make art by reconfiguring our shared cultural languages and references, but as those shared experiences shift from firsthand to mediated, and the most powerful political forces in our society are as likely to be multinational corporations as politicians, a new set of issues emerges that once again raises serious questions about out-of-date definitions of freedom of expression in a branded culture. In this context, telling video artists that they can’t use old car commercials, or musicians that they can’t sample or distort lyrics, is like banning the guitar or telling a painter he can’t use red. The underlying message is that culture is something that happens to you. You buy it at the Virgin

⁵⁷ Steiner.

⁵⁸ Antoine Audouard, a novelist, quoted in Riding, Alan, “Les Miserables and Moral Rights”, *New York Times*, the 29th of May, 2001.

Megastore or Toys ‘R’ Us and rent it at Blockbuster Video. It is not something in which you participate, or to which you have the right to respond.⁵⁹

Culture is by some seen as the creative commons.

It is the memory-bank of human innovation, and all current creativity feeds there. We might not have Emma Thompson’s movie, ‘Sense and Sensibility,’ if Jane Austen’s novel were not now in the public (sic!) domain. We might not have Disney’s ‘Pinocchio’ if Collodi’s *Pinocchio* had not been in the public domain; we certainly would not have had Collodi’s original had he not been free to draw on Italian folklore.⁶⁰

In the preparatory works to the Swedish Act (1960:729) on Copyright in Literary and Artistic works, this is acknowledged in the following sentence: “In the end, all culture⁶¹ rests on property which is not free.”⁶² (My translation.)

4.3.2 *Imitatio versus originality*

Our time is still characterized by the idealization of the romantic notion of originality. However, there is really not necessarily opposition between creativity and copying. During the antiquity, a skilful translator was admired just as much as the original creator. As Ingela M. B. Wiman notes, it requires much brain capacity to give a new form to a given content.⁶³ This is what happens when an author or creator creates something new from something old. Would anyone consider the Aenid to be vastly inferior to the Iliad today? I think not. An author who uses our common cultural heritage and creates something new out of it is as creative as the author who used it for the first time. Note that I am not talking about persons who have as their sole purpose to infringe other people’s intellectual property, or who solely wishes to benefit from somebody else’s work. I realize that there is a thin line here, but it is a matter of fact that authors consider our cultural heritage basically to be up for grabs. Otherwise, all great literature would already be written, perhaps with a few exceptions, and almost all authors could retire:

[E]very story has already been told. Once you've read *Anna Karenina*, *Bleak House*, *The Sound and the Fury*, *To Kill a Mockingbird* and *A Wrinkle in Time*, you understand that there is really no reason to ever write another novel. Except that each writer brings to the table, if she will let herself, something that no one else in the history of time has ever had. And that is herself, her own personality, her own voice. If she is doing Faulkner imitations, she can stay home. If she is giving readers what she thinks they want instead of what she is, she should stop typing.

⁵⁹ Klein, Naomi, *No logo*, London (2000), p. 178.

⁶⁰ Shapiro, Michael S., “Looking backward and forward. The Arts, Technology and Intellectual Property: Core Concepts and Critical Issues”, collected from <http://www.columbia.edu/cu/amassembly/ac/PDF/shapiro.pdf> on the 30th of January, 2003, p. 13, who has collected this quote from Lewis Hyde, *The Gift: Imagination and the Erotic Life of Property*.

⁶¹ Culture is translated from ”bildning”, in German “Bildung”, which is somewhat different, but the English language does not have a better word for describing this. “Bildning” encompasses more than culture, but culture is certainly included. “Education” can also be used to translate this word, but this seems to me a word that is more narrow than culture, and less close to the meaning of “bildning”.

⁶² SOU 1956:25 *Upphovsmannarätt till litterära och konstnärliga verk*, p. 66.

⁶³ Ingela M. B. Wiman, *Att tyda och tolka*.

But if her books reflect her character, who she really is, then she is giving them a new and wonderful gift. Giving it to herself, too.⁶⁴

There are *always* traces, images that have been used before, themes previously explored, familiar motifs etc. This does not mean that it is bad, but authorship is as much about ingenuity and a voice of their own as of coming up with something entirely new. The views on culture have shifted in the past and will most likely shift again. This is not in itself something bad, but it is something that many people are not aware of and that is not communicated in the object of copyright, which is clearly a product of our time. However, since it is how the ideas are presented, the form, that is protected, not the ideas in themselves, there seem to have been an understanding of this among the legislators. But, when you shift protection to trademark protection, or give copyright a wider scope, this understanding is overruled and deemed obsolete, which it certainly is not.

4.3.3 Intertextuality

Authors often use and re-use others ideas and other features of literature. The relationship between different literary texts is called intertextuality, meaning that one literary text is present in another. “Some theorists believe that intertextuality is the very condition of literature, that all texts are woven from the tissues of other texts, whether their authors know it or not.”⁶⁵ An example of this is when authors play with names. Maxim Gorki, a Russian author, wrote an autobiography about his childhood and youth. Maxim Gorki was not his real name but a pseudonym. The last name means bitter (“bitter” in Swedish too). When the Swedish author Ivar Lo-Johansson wrote his autobiographical book *Goodnight, earth!* (*Godnatt, jord!* in Swedish), he called his main character Martin Bister (meaning grim). However, this is something a reader in many cases should discover, and this reference from Ivar Lo-Johansson to Maxim Gorki is something that adds something to the text. If the notion of protecting character names by making them trademarks, this is a dimension of literature that risks disappearing or at least becoming less important. Another example is when T.S. Eliot makes a reference to Joseph Conrad in his poem “The Hollow Men” in the line “Mistah Kurz, he dead”. “Mistah” Kurz refers to Kurz in Conrad’s short story *Heart of Darkness*.

4.3.4 Allusions

An allusion is “a passing reference to a person, place or event beyond the obvious subject matter of a text, or a reference within a text to another literary work. Allusion enhances or complicates a text; an instructive or interesting parallel is drawn with another area of literature.”⁶⁶ Allusions are adding other literature to the literature in question, giving more meaning to those readers who understand the allusions, and often excluding inexperienced readers.

⁶⁴ Anna Quindlen’s commencement speech, Mount Holyoke college, May 23 1999, collected from <http://www.mtholyoke.edu/offices/comm/oped/Quindlen.shtml> on the 26th of November, 2002.

⁶⁵ Lodge, David, *The Art of Fiction*, St Ives Plc (1992), p. 98-99.

⁶⁶ Peck, John and Coyle, Martin, *How to Study Literary Terms and Criticism*, 2nd edition (1993) p. 134.

4.3.5 Using a character from one book in another book, which is not written by the same author

Sometimes an author connects his or her novels by letting one character that was the main character in one book show up as a bi-character in another and vice versa. This is an idea that Balzac was one of the first to put into use, connecting all his novels to *La comédie humaine*. To use an analogy from TV-series, this can be seen as spin-offs. However, in the world of literature, writing another book about a character can be done for many purposes, such as:

- *Sequels*. What happened next? Would Scarlett ever get Rhett back? The result is the novel *Scarlett* by Alexandra Ripley.
- *Unresolved questions/another point of view*. Why was Bertha the madwoman in the attic? Jean Rhys wrote *Wide Sargasso* so that her story should be told, too.
- *Unfinished novels by the time of death of the author*. *Sanditon* was finished by an author who modestly called herself “another lady”.⁶⁷
- *A political argument*. The Swedish picture-book *Lasse’s grandfather is dead* resulted in the ideological counter-arguing book *Lena’s grandfather is in heaven*, where Lasse shows up as a person in the book.

All these examples have one thing in common: an author, not necessarily the author that originally created the character, writes a book about a bi-character or a main character from another or the same point of view. In many cases, the copyright protection has ceased to be in force, however, not in all cases.

It is important to remember that sequels and similar are not at all always written in bad faith. As Britt Dahlström points out: “Many sequels are written with an honourable intent, perhaps in respect of an admired colleague, perhaps after desire from the readers.”⁶⁸ (My translation.)

A recent example of a book of the kind described above is *Mr Dalloway*, written by Robin Lippincott. *Mr Dalloway* is an allusion on *Mrs Dalloway*, the title of a novel written by Virginia Woolf. What is interesting to note is that one reviewer explicitly points out that this is not necessarily something bad: “Mr. Dalloway is full of wonderful Woolfian sentences and moments, but like all good marriages, *it complements rather than mimics its partner* by maintaining its own distinct personality and agenda. Robin Lippincott has opened the windows (and closet doors), allowing a gust of fresh air to blow through the Dalloways' house.” (My italics.) Peter Cameron, Andorra. Thus, not only has the reading of Mr. Dalloway gained something from Woolf, but those reading Woolf will gain something from reading Mr. Dalloway too. Reading is an intricate process.

⁶⁷ Jane Austen first published her novels under the pseudonym “a lady”, thus the pseudonym “another lady”.

⁶⁸ Dahlström, Britt, *Bara om böcker*, Stockholm (2002), p. 107.

4.3.6 Parodies

A parody is “a comic or satirical imitation of a piece of writing, exaggerating its style and content, and playing especially on any weakness in structure or meaning of the original.”⁶⁹ It has nothing to do with humour, but is often a rewriting of a specific text, from another point of view. An example is *Joseph Andrews*, written by Henry Fielding, which is a parody of *Pamela* by Samuel Richardson. The story of Pamela, the main character, is retold, but this time by her brother’s perspective. The brother is invented by Henry Fielding. Free expression, and artistic freedom, works “through reworkings and contradictions and elaborate jokes”.⁷⁰

There is a difference between a sequel and a parody. A good analogy that has been used is that of evolution and revolution. “The goal of parody is to comment critically and to expose and explode the flaws of the original. The goal of a sequel, by contrast, is to continue a story, generally using the principal characters, style, tone, and themes of the original; a sequel might take a slightly different point of view, but it would not overturn or ridicule the basic assumptions of the original.”⁷¹

4.4 Exceptions

There are exceptions for intellectual property rights; all examples of somebody else than the owner of the intellectual property using the intellectual property are not infringements. However, there are two important exceptions from copyright in the Swedish Act (1960:729) on Copyright in Literary and Artistic works: the right to quote and the right to make a copy for private use. The reason for these exceptions is that copyright protects something, for a certain time period, which really belongs to all of us: culture. Trademarks, on the other hand, are constructed from another perspective: the corporate perspective. Trademarks are meant to be used in order to distinguish somebody’s products or services from somebody else’s products or services. This has nothing to do with culture whatsoever, and therefore, there are no exceptions on behalf of culture. Thus the clash when trademarks are registered for something that really ought to be protected by copyright, only.

From a U.S.A. perspective, there is one exception that is most relevant for both copyright and trademarks: fair use. Although differently worded for the different intellectual property, the purpose is the same: to ensure the cultural interest. An example of this is parody: it is considered a form of criticism, which is one example of fair use, and in that criticism, copyrighted material may be used, if necessary for the parody to work.⁷²

⁶⁹ Murphy, Bruce (ed.), *Benét’s Reader’s Encyclopedia*, 4th edition (1996), p. 778.

⁷⁰ Campbell, Colin, “Don’t know nothin’ ‘bout birthin’ copyright violations”, collected from http://www.scarletonline.com/the_wind_done_gone.htm on the 14th of January, 2003.

⁷¹ “The Wind Done Gone: Questions and Answers about this dispute”, collected from http://www.hughtonmifflinbooks.com/features/randall_url/quandas.shtml on the 14th of January, 2003.

⁷² In Sweden, parodies are allowed on other grounds: they are considered works in their own rights, according to SOU 1956:25, p. 136-137.

4.4.1 Quotes

A difference between copyright and trademark protection is that for copyrighted material, there exists always a possibility to quote without infringing the copyright owner's rights. For trademarks, there is no such exception. If literature becomes increasingly trademark protected, the quote right is threatened. This could be solved by moving the quoting provisions from the Swedish Copyright Act and put it in a general act for intellectual property, stating that quoting is allowed under certain, specified conditions, or introduce the fair use concept. However, there is a problem with this. Copyright often covers large texts, whereas trademarks covers a phrase or similar. If you quote from a copyrighted text, you will only use a very small part of the entire text, thus still protecting the work in its entirety. Using a few words here or there does not threaten the author's work as such. From a copyrighted text, you also have the possibility to make many different quotes, whereas with trademark, there is almost always only one quote to make – which will correspond to the entire object that is protected by trademark(s).

4.4.2 A copy for private use

This is allowed in Sweden, today, although many want to take away this provision, due to the digital development. However, the main target is not literature, but film and music. The problem is only that literature is considered literary or artistic works just like them, so it is not likely to be treated differently. As the situation looks today, taking away this provision would not be that much of a problem for literature. The situation is changing, though: literature is being published directly on the Internet, by authors who want or who do not want to give up their copyright. This is not a problem, yet, either, but if some literature will be available in digital form only, and the only means of getting access to that literature is to pay for it, then there is a practical problem. Unless there are exceptions for libraries or similar, there will be literature that will not be available except for those who can pay for it. This, too, will not become much of a problem unless this is the case for a significant part of the literature that is being created. In the long run, this could be a threat to our culture as we know it. But I do not think this is, or will be, the main problem.

4.5 Infringements

From a commercial perspective, it is important that any infringements do not go unnoticed. If infringements do not happen, either the intellectual property is protecting something nobody is interested in, or the laws regulating infringements of intellectual property are very weak.

Of course, some books can be written with the sole purpose of benefiting from another book, and the result can be boring, non-imaginative as well as bad literature. However, as I have shown above, this is not always the case. The result can be a book justified in its own right, and writing a book in this way does not automatically exclude creativity or originality. Just because an author uses a character from another book does not mean that the author wishes to take an illegitimate advantage from the connection to another author either, whether said author is well-known or not.

This is the area in which I think the main threat for literature as we know it is. If authors are not allowed to use our common cultural heritage, as described in section 4.3.1, then creativity will be seriously restricted. If copyrighted elements are being too fiercely protected, then that will affect authors' new creations, or, more importantly, publishing firms willingness to publish novels with any references to what have been written earlier. This development is not inevitable, and I do not think there is any immediate threat, but, I do think this is an area of law whose development is very important to watch and guard. What shall be guarded is creativity and creative works. I do not say that intellectual property shall not be guarded, at all, but our common cultural interests must always be taken into account.

4.5.1 Purpose

The purpose of trademark protection is to protect the owner of a certain trademark against somebody else profiting on something that is his or hers. However, this purpose does not mix and match well with *other authors* being prevented from using certain words, names, phrases etc. The purpose is to prevent companies from taking unfair advantages from somebody else's investments. However, that is not *at all* what most authors have in mind. Their purpose is to express themselves creatively, and thus contribute to our culture at large. To limit this freedom is, in a sense, to limit the freedom of speech and limit creativity.

4.5.2 *The Wind Done Gone*

The Wind Done Gone is a parody of the novel *Gone With The Wind*. But this time, the story is told from quite another point of view: Scarlett's (imaginary?) half sister, Cynara. Scarlett is referred to as "Other". Under U.S. law, the defence for re-using a character must be based on fair use in order to be legal. Fair use is a concept that we do not have in Swedish law. The publishing firm argued that "*Gone With the Wind* has become an icon and a pervasive point of reference for people's understanding of the Civil War-era South, but the picture presented by *Gone With the Wind* is inaccurate and extremely racist."⁷³ However, the estate of Margaret Mitchell argued that it was nothing other than copyright violation. In the first authority, the estate managed to get a preliminary injunction of the book, but after appeal, the ban was lifted and the publishing could proceed as usual.⁷⁴

4.6 Arguments for and against an increased protection of literature

4.6.1 Arguments for an increased protection of literature

The most important arguments for an increased protection of literature, whether in the form of trademark protection or an increased scope of copyright, are the economic

⁷³ "*The Wind Done Gone: Questions and Answers about this dispute*", collected from http://www.hughtonmiffinbooks.com/features/randall_url/quandas.shtml on the 14th of January, 2003.

⁷⁴ Ellis, David R., "The injunction done gone: federal appeals court upholds 'Gone with the wind' parody fair use copyright defense", collected from <http://www.easl.net/Documents/Elliswinddonegone.pdf> on the 14th of January, 2003.

arguments. The owner of the intellectual property is protected against other people using it, which will strengthen their economic base, which will make future investments possible and desirable, since they can be ascertained of a return of the money. One of the arguments the Mitchell estate used was that if *The Wind Done Gone* was considered not to infringe their copyright, they would not have the same possibilities to license other sequels etc.⁷⁵

Another argument concerns the author's moral right to his or her work. This can be seen as important, too. An author may feel violated if someone else "messes" with his or her creation. This was the case with the sequel to *Les Misérables*, *Cosette*, in France, where the artist's moral rights to his or her work is protected in perpetuity. The Hugo family considered the novel to be a "vulgar commercial exploitation" of *Les Misérables*.⁷⁶ However, the court did not rule in favour of the Hugo family.⁷⁷

4.6.2 Arguments against an increased protection of literature

There is no infinite number of names. Sooner or later, they will all be used up. It is less serious if an author's name, real or not, is trademark protected. It is far more serious if a name of a character or a school or similar is trademark protected, since this may prevent the use of them, regardless of purpose. A name, on the other hand, will be more original (it would be very strange if a name such as John Smith was awarded trademark protection).

Not only the authors whose main concern is to make money will be stopped, also, the authors who may want to bring an original vision (even if revisiting an old setting) into life, or wants to share another point of view of a story, or has another "honourable" intent.

If some intellectual property holders manage to "monopolize" literature, there is a risk that many books are never written, or at least not published, for fear of intellectual property infringement. This may become a threat to the variety of literature as we know it. This is also a problem concerning the freedom of speech, which is especially apparent in *The Wind Done Gone*, where a racial conflict of views is inherent. The case is not only about artistic freedom in general, but also about the right for everybody to make his or her voice heard.

To increase intellectual property costs money, too. To register and uphold trademarks can be expensive, especially if covering many countries. Lawsuits over intellectual property can also be costly. These costs will be added to the final "products", i.e. the books, which in turn can lead to that many people cannot afford buying books, or not buying as many as they used to.

⁷⁵ Rankin, Bill and Vejnaska, Jill, "Fiddle-de-dee! What would Scarlett think of 'The Wind Done Gone'?", collected from http://www.scarlettonline.com/the_wind_done_gone.htm on the 14th of January, 2003.

⁷⁶ Riding.

⁷⁷ Von Derschau, Verena, "Les Miserables' sequel protected", 13th of September, 2001, collected from http://www.boston.com/news/packages/underattack/globe_stories/0913/Les_Miserables_sequel_protected+.shtml on the 12th of February, 2003.

5 Conclusions

The conceptualisation of literature is a result of the combination of increased need for profit, and the increased understanding that it is possible to make more profit. Is there a coincidence that these things seem to appear at the same time? I think not. In our times, intellectual property means money. A lot of money. And why is this so? Because literature per se no longer is the primary focus, but a part of a concept, which is marketed in many ways and where sales of an actual novel do not yield the largest income. Literature is seen as any other merchandise. The novel in itself becomes a kind of product placement for a brand, which is a part of a strategy to sell practically anything that can be physical manifestations of a brand: films, licenses, computer games, trade cards, authorized sequels, Lego toys, musicals, jewellery and so on ad infinitum. Product placement in literature is a sign that authors become workers for the capital, to associate the brand of the author with the brand of the product that is placed. There will be a transmission of connotations from the author's brand to the brand that is product placed, and unfortunately, I think that there will be a transmission the other way around too, only that the connotations associated with the author will not be good ones. The point, and in a sense the problem, is that products are seldom sold any longer; instead, ideas are sold, but in the form of physical manifestations. In essence, literature becomes a product.

5.1 The relationship between IPR:s and the artistic freedom

It is important to note that there is a conflict between increased intellectual property rights on one side and artistic freedom on the other. This conflict must be made visible in order to ensure that intellectual property rights are not seen as inherently good for society. There is always a trade-off; only, this trade-off is often not at all visible. Few people question the artistic freedom in principle, although there are exceptions from the general principle. But, in practice, the artistic freedom is often challenged.⁷⁸ As I see it, there is a problem here. The artistic freedom cannot be upheld only as a notion – if it shall have any bearing on the society we live in, it must have practical consequences. And one of these consequences should be that whenever an intellectual property right is granted, it should be taken into consideration in what way and how much it limits the artistic freedom.

It is important to recognize what one can and cannot do. There is no doubt whatsoever that authors, as well as other artists, have a number of regulations when creating, and some of them are not legal. However, the legal ones can be controlled, the others, such as

⁷⁸ An example of this is the Swedish novel *Den vidrige* (The Vile; not translated into English) by Anastasia Wahl (a pseudonym). Pocketshop refused to sell this book because of its content (it does include “pornographic writing”) and no major bookstore, at least in Gothenburg, carried it except Pocketgallerian, which sold it, literally, under the counter. The novel was, however, sold via several Internet bookstores, including the publisher's. Pocketshop stated that the only example of when they had actually stopped a title was Kalle Hägglund's pocket edition of *Mein Kampf*, although titles are excluded all the time on the grounds that they do not sell well enough. Ljung, Maja, “Bokhandlarna som slutade sälja”, *Expressen*, 2002-07-24. Distribution problems clearly are a threat to the artistic freedom in practice, although the Internet development has facilitated the distribution of books enormously. To my knowledge, there has never been a process against the author of the novel or the publisher. Yet, it is not that easily available, although it has never been considered to break any Swedish laws.

the demands of readers and critics cannot (or, at the very least, they are very hard to do anything about). Therefore, I consider it very important that legal matters are not dismissed on the grounds that they are not the sole evil in the case. It is clear that they are not; yet, by solving legal matters in a way that benefits as many actors as possible, the sum of all evils can decrease. I am not suggesting that the commercial perspective is set aside completely in favour of an art-friendly societal perspective. I am suggesting that the commercial perspective is balanced against a societal perspective, and that in law, at least, power (in terms of money and influence) does not equal right.

5.1.1 Further implications: artistic freedom and freedom of speech

It is important to remember that artistic freedom in literature serves a dual purpose: a cultural purpose, but also a purpose of functioning as a commentary and criticism. In the latter function, the importance of artistic freedom for freedom of speech is apparent. In my essay, I have focused on the artistic freedom, but I would like to add that this is an important implication that is inherent in the notion of artistic freedom. Not only are artists often outsiders who are not afraid to write about uncomfortable truths, but they are also observers of society as we know it, and they express a multitude of views on said society. Therefore, from a societal perspective, it is important to uphold the artistic freedom in order to secure freedom of speech, a value many pay lip service to but few actually stand up for. As for product placement, the largest threat to this specific part of artistic freedom is the influence on content, see more about this in section 3.5.1. As for increased protection of literature, it is generally a problem, if intellectual property becomes a hindrance for some to write, or, more important, publish, what they want and dare, respectively (due to restrictions of intellectual property). As John Stuart Mill so eloquently put it: “the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation”⁷⁹.

5.2 Product placement in literature

From a commercial perspective, it is important to realize that product placement is not the one and only answer to marketing. There are risks with product placement, too, and a product placement agreement must be carefully drafted. Also, it is important to analyse when and under which circumstances product placement shall be used.

It is quite possible to write a novel that includes product placement and still have as much artistic freedom as the author usually has. There are restrictions on the artistic freedom whether or not a novel includes product placement, but the art of the restrictions differ. They can be said to be approximately as restricting to the artistic freedom. In a novel where product placement is included, the artistic freedom is limited in a way that mirrors the conditions for a successful product placement: content, form and style. However, if a novel is written without including a product, there are other restrictions, such as financial restrictions, reader response, response from critics and so on. This is at

⁷⁹ Mill, John Stuart, *On Liberty*, in *John Stuart Mill, Utilitarianism, On Liberty, Considerations on Representative Government*, edited by H.B. Acton (1992), p. 85.

least the case with *The Bvlgari Connection*, although, naturally, these conclusions are very uncertain since product placement is yet so uncommon in literature.

It is a whole different matter with books such as *Kellogg's Froot Loops! Counting Fun Book*. As a matter of fact, it is most questionable whether or not they can be called books, or if they should be called advertisements. Since the author actually pays the brand holder for the privilege of including their brand in the book, the advantages of not having to deal with pressure from critics and readers are not there, in such a case. All in all, the authors of such books have the negative aspects of product placement, but not the positive ones. Therefore, there is no balance and the artistic freedom is more limited than in *The Bvlgari Connection*. Furthermore, although I do not like to point our morals concerning literature, even I find it hard not to consider these books immoral: they are a way for brand holders to reach a very young target audience, who has not yet developed critical thinking.

Product placement means that the line between editorial content and commercials becomes blurred. This has legal consequences as well as artistic consequences – some would argue that books (with or without product placement) are merchandise like any other.

I do not think that product placement in literature will become that common in the near future, but it is a possibility for some authors to finance some writing projects. Also, from a Swedish perspective, if the project Freepocket is realized, many of the consequences of product placement will become a reality.

5.3 Increased protection of literature

I do not question the need for intellectual property, as some critics of intellectual property do. But I do not consider the laws regulating intellectual property written in stone either. They are legal constructions, and as such, can at any given moment given a change in legislation be subject to change. The result is other legal constructions.

I acknowledge the rights to publishing firms and similar actors to actually make profits on their investments. I understand that intellectual property is necessary for them in order to take the economic risk it actually is to publish a novel, especially from an unknown author. I also realize that in order to be able to take risks with new authors etc., it is necessary to make large profits in some cases. It is important to balance the incentive structures: intellectual property must be awarded, so that works are created, and spread to the general public, also, intellectual property may not protect so much so that this in itself puts a ban on authors right to create new works.

Exactly how these legal constructions shall be construed is another matter, though. When I started my essay, my starting point was that IPR:s present a Janus face to literature. One of the points I have made is that whereas copyright protection is necessary and desirable for authors and the world at large, trademark protection is not. It will, in the cases where it is allowed to exist, provide extra protection to certain authors (or rather their publishing firms). Trademark protection means that the exception of quotes will be hard to uphold, thus decreasing the artistic freedom through taking away exceptions from the intellectual property protection. Also, the protection can last virtually forever, as long as it is renewed, which is not the case with copyright. This extra protection will not only stop the parasites but also the idealists. The more you try to protect the ideas themselves (as expressed in names, figures etc.) the further away you come from the idea of a

common cultural treasure. From a societal perspective, I cannot conclude anything but that this is undesirable, since it will impose such hard restrictions on literature as an art form. Is it really necessary to have a mixture of intellectual properties in the same work, such as trademarking the pseudonym, a name of a character etc. and in addition to this have copyright to the entire work?

Copyright protection can be seen as a time-limited loan (with restrictions regarding quotes etc.) of the sole right to use a specified work commercially from humanity as a whole to the author as a single entity, which after a given time shall be returned. The work is thus singled out from our cultural heritage for a certain time period, after which it is becoming one with our common cultural heritage. However, the time period during which copyright is awarded is very long. In order to balance the societal and the commercial interests, a much shorter period of copyright protection might be sufficient. That would solve many conflicts, such as *The Wind Done Gone*. After all, if a novel has had the time to become a cultural icon of a society, it is not unreasonable that someone should have the right to rewrite the story. The scope of copyright is not a given, either, and it can be (and has been) argued that it covers more or less than the construction of copyright is supposed to do as of today.

As I have studied this subject, it seems that there is a general understanding among the legislators and courts that have commented on such cases as *The Wind Done Gone* and *Cosette* that our common cultural heritage may not be monopolized, not even for a certain time period. The interests of the intellectual property holders⁸⁰ have, in these cases, been set aside in favour of the interests of our society at large. However, in the case *The Wind Done Gone*, it was only after appeal that the societal interest of parodies prevailed. This shows that although this is no real dynamic legal field in Sweden, it is indeed developing in the U.S.A. and in the EU, and as I have previously stated, this legal field will be influenced by other sources. The case for copyright has proven to be a very important one, with the large economic interests of the music and film industry, interests that are challenged due to the Internet and general digital development. In Sweden, the exception from copyright when making a copy for personal use is considered as most problematic by the industries in question. In the U.S.A. and in the EU, laws and directives, respectively, are created to make it illegal to, among other things, sell “anti-circumvention devices”, basically devices that make it possible to copy a CD although it has been protected from copying by a computer program. This is only one of the legal tools that will be crafted. There is so much money at stake here, and these battles are far from finished. Instead, I think that we will face a development when copyright will become more protected, less circumvented, and this will, unless literary and artistic works are singled out (which I consider most unlikely), affect literature as well. Since Sweden is a member of the EU, there is no national “third way” available, but Sweden as a country will instead compete with other countries for influence of this development. Therefore, I hope that I with this essay have contributed to highlight these conflicts between the societal and commercial interests. Also, I have shown that these different perspectives are indeed interdependent, due to the incentive structures discussed in section 2.3. As I have previously stated, legal constructions shall be seen for what they

⁸⁰ In the *Cosette* case, it was the moral rights that were set aside, more precisely, although that can be seen as a kind of intellectual property, too, if an extensive definition is used.

are, constructions, that are neither timeless nor given by God or “nature”, and it is in our power, as a society, to construct these in a way that balances the commercial and societal interests for our common good.

5.4 A short futuristic outlook

The future is interesting and hard to predict, so this is not THE truth, only one prediction among others. I think that we will see a world where branding will continue to be a reality and become more and more important. We do not buy candy or food anymore, we buy brands. And have to pay for it. We will live in a world that is at the same time the real world, although intertwined with numerous virtual worlds on many levels, to the point where it is hard to distinguish between what is “real” and what is not. It may even come to that that we start asking ourselves if it really matters. Maybe it does not. Maybe it does. We will still use culture, as I believe that humans are more of a cultural animal than a societal, but in many forms and our culture will become almost one with commercial interests. There will basically be no sacred domains. Literature will still matter, but we will have to learn to deal with brands. This is extremely sophisticated. Where does it start, and where does it end? Was it originally a computer game, a film, a book, a commercial? What is it now? What will it become? The real world will become so intertwined with numerous virtual worlds that these questions actually will be hard to answer.

This is the result both of product placement in literature and increased protection of literature (if that will become a reality). Not only the products that are placed in literature will be brands; authors will become brands, too, as well as their creations. This means that literature will be one of many media where brands are intertwined with editorial content. The brand of the author will mix with the brand of the product that is placed. The brand of the author will also be built through an increased protection of literature; that is after all the goal of the increased protection of literature: to create a cultural monopoly, if possible, so that the brand of the author and the cultural content can be protected, in order to make as much money as possible. Moral rights for authors are used as an argument by some, but frankly, I wonder if that in most cases is nothing other but a façade legitimization.

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