

Armpit-Farts #4

being the muddled & mischievous musings of a maladjusted mind
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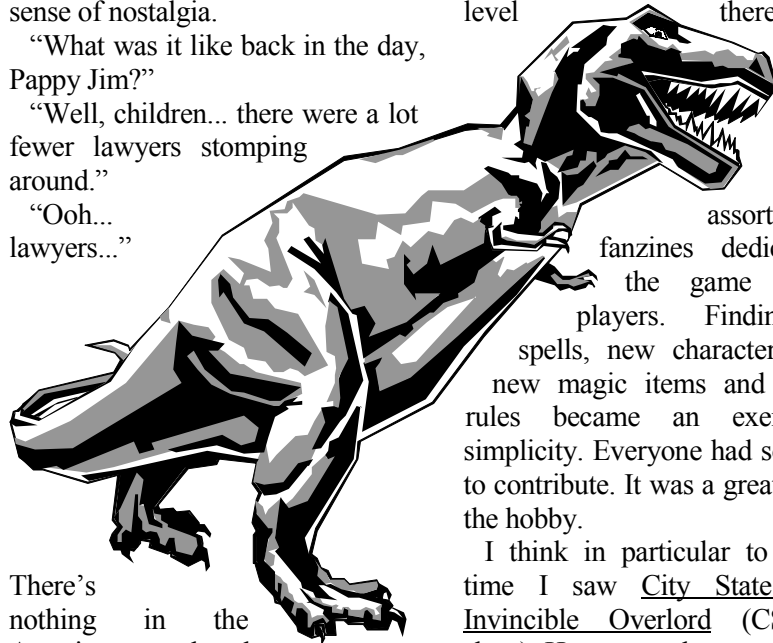
Spinning in Circles: A History & Analysis of TSR's Copyright Policies

When I look back at my years... er... decades as a roleplayer, the memories come with a certain fond sense of nostalgia.

"What was it like back in the day, Pappy Jim?"

"Well, children... there were a lot fewer lawyers stomping around."

"Ooh... lawyers..."



There's nothing in the American psyche that conjures quite the same sense of dread as the words, "My lawyer will be contacting your lawyer." One might just as well say, "I'm gonna sick my big, hungry Tyrannosaurus on ya, and he's gonna tear yer flea-bitten heart out, chew it up, and then stomp on it a few times just for giggles!" After all, the effect is much the same, only quicker and less painful.

And you know the best thing about the good old days? It was the comparative lack of these fiendish creatures... a general sense that they weren't needed, that their lives and ours needn't ever intersect. Like the terrible lizard, these evil minions called "lawyers" belonged to another world, one quite apart from our own. Oh, those were the days.

Back then, during those first few years, pretty much everyone played D&D (or AD&D as it was later

known). For a while there it was the only game in town, so I suppose it was natural that at the grassroots level

there should spring up an

assortment of fanzines dedicated to the game and its players. Finding new spells, new character classes, new magic items and alternate rules became an exercise in simplicity. Everyone had something to contribute. It was a great time for the hobby.

I think in particular to the first time I saw City State of the Invincible Overlord (CSIO for short). Here was a huge walled city, complete with catacombs and extensive shop listings, tons of npcs, plot hooks galore, and enough material to keep a campaign going for years. And the map... well, we'd never even imagined anything like that map. You could get lost just looking at it. And to top it all off, CSIO wasn't produced by TSR, the makers of D&D. It was put out by Judges Guild, a third-party publisher, which like so many of that era had just started out as a gaming-group. I had the occasion to ask Bob Bledsaw of Judges Guild about how the whole thing got started, and how things went with TSR. The story he had to tell was pretty typical except in its scope. As with many third-party products, CSIO had its origin in a D&D campaign that Bob had run for a group of wargamers turned roleplayers. What was unusual was

the crowd of interested onlookers it conjured.

"I drew up the City State of the Invincible Overlord and, being an avid Tolkien fan, placed it on what was later to be Campaign Map One and created a 'gate' to the ruins of a dead city northeast of the Shire. Soon sessions were attended by as many as thirty spectator college students as I judged sessions for the original group of six players."

As work at his company got tight, and his game kept attracting bigger and bigger crowds, Bob began to wonder if other DMs might profit from his creativity. Like many a first time publisher, he wondered if he just might be able to carve himself a niche.

"I contacted a U of I copyright lawyer/teacher, a local lawyer, and a Wisconsin lawyer with a copy of the City State of the Invisible Overlord plus the original D&D boxed set. They all said 'no infringements or copyright violations'. Putting up the gas money, Bill and I drove up to Lake Geneva on a hot summer day. The whole TSR staff was there for the meeting. Gary's mouth fell open when I brought in three boxes of materials plus the maps for my campaign. Dave seemed very overwhelmed also. I told them I revised their rules to make the game playable and wished to publish a Judges Shield, Dungeon Tac Cards, City State of the Invincible Overlord, and other products as long as there were no legal hassles or royalties necessary. They laughed at me and several seemed to speak at once. 'Games are not copyrightable. You do not need our permission, but you are wasting

your money. People buy games not game aids. We are busy doing a real game, Fight in the Skies, and will not waste resources on this silliness. It is not a real game, just a beer and pretzels pastime, fun for one or two sessions only.”

Indeed! Methinks that at this early stage in the game, TSR didn't have the first clue as to what they had on their hands, so they made no moves to try to “control the market” as it were. However, even if they did know that D&D would soon be selling like hotcakes, would they have started putting up no-trespassing signs? The statement that is the most illuminating to me is the first thing out of their mouths: “*Games are not copyrightable.*”

What do they mean, “Games are not copyrightable?” What basis is there for such a statement? Well, actually, there's a lot of basis for it. A whole heck of a lot. To quote from U.S. copyright statute:

“In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such a work.”

The question before the court, your honor, is... “What is a game?” Is it the actual text used to describe the game? Or is it the method of play, the procedure outlined in the rules, in short, the system? We call them “game systems” for a reason. If you allow that the ruleset of an RPG is essentially a “system” in the legal sense of the term, then it follows from the statute itself that the ruleset cannot be copyrighted.

Now this is a kick in the butt, isn't it? Why would our lawmakers do such a thing? The answer is quite simple, actually. Copyright law wasn't created for the benefit of copyright holders. It was created for

the benefit of society at large. If systems could be copyrighted, then (for example) computer operating systems could be copyrighted. That would mean, perhaps, that if you wanted to write a program for use with MS-DOS, you would first have to get Microsoft's permission before you could sell it. Just imagine how society at large would suffer if this were the case. And as for Bill

Gates, he wouldn't be a mere billionaire... he'd at least be a trillionaire. Fortunately, our lawmakers were smart enough to realize that systems are created to be used by lots of people. Hence, they shouldn't be allowed the protection of copyrights.

Now if you want to patent a system, that's another story entirely. You can certainly patent a system. But patents only last for something like seventeen years at which time the process or invention becomes public domain. Copyrights, on the other hand, last for the full life of the author plus an additional fifty years. Our lawmakers basically said that it's in the public's best interests that the protection on inventions and systems be more limited than the protection on mere words.

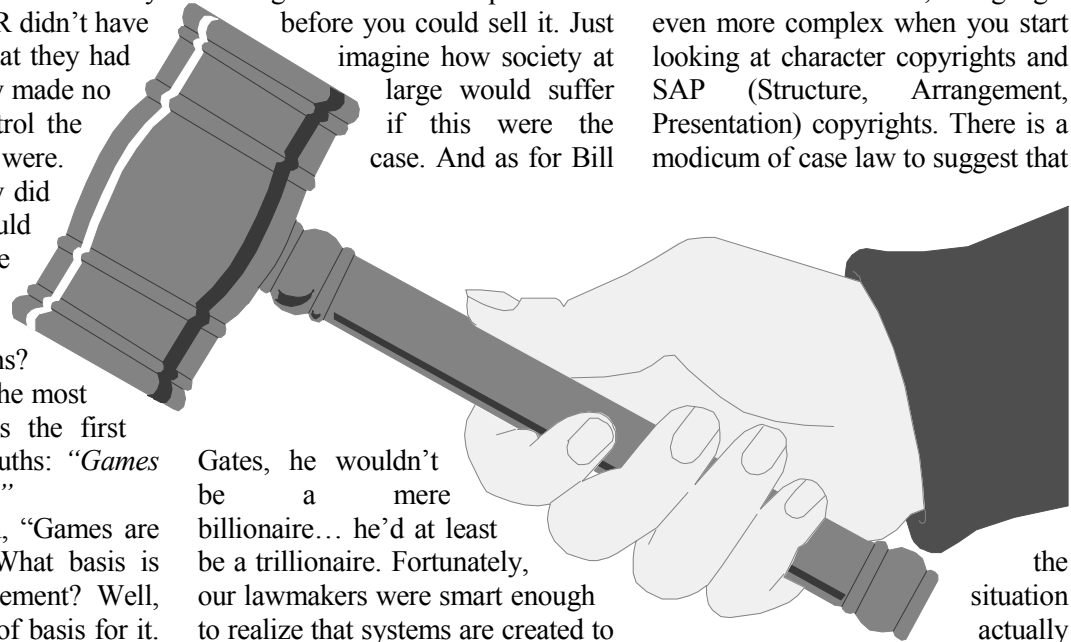
But what about games? Where do they fall into all this? Are they systems (thus falling under patent law) or are they works of artistic expression (thus falling under copyright law)?

As might be expected, there is a narrow line that much be drawn. To quote from Patents, Copyrights, and Trademarks by Foster and Shook:

“Interestingly, the courts have ruled that certain parts of a game

cannot be copyrighted, including its rules, concept, and name. However, such things as board graphics, cards, and text explaining the rules are copyrightable.”

So you can copyright the text of the rules but not the rules themselves. Of course, things get even more complex when you start looking at character copyrights and SAP (Structure, Arrangement, Presentation) copyrights. There is a modicum of case law to suggest that



the situation actually can become quite a bit more complex. But, so far as pertains to roleplaying games, there's never been a ruling which spells out exactly what is and what isn't copyrightable with respect to the game engine, the terminology of the system, etc. It is almost as if all these lawsuits we keep hearing about have been exercises in brinkmanship.

Personally, I didn't know the first thing about copyright law, or patent law, or trademark law for that matter, until around 1994. That was really a landmark year for this hobby, because that was the year that TSR got on the Internet. But let me go back even a few more years... to 1990 or thereabouts.

When I first got online, I was pretty amazed by what I found in the rec.games.frp newsgroup. It was a lot like this APA, actually, and the place had a homey sort of feel... like a campfire with a bunch of gamers kicking back telling stories about their campaigns. Some people would share new monsters, spells,

etc. Others would write full-scale adventures. I began collecting a number of these posts and, with the permission of the respective authors, put some of the best into The Guildsman, the Internet's first RPG magazine.

At first, I sent the magazine out via email, but that proved to be too troublesome. You try manually emailing a hundred different people whose addresses are constantly changing. So somebody suggested I put the magazine up for FTP. FTP? At first I was mystified. I had never heard of this "FTP" thing before.

As it turned out, FTP stood for

File Transfer Program. The basic idea was that there were all these FTP sites all around the world. Back then, 90% of Internet sites were educational... mainly colleges and universities. The U.S. government was "bootstrapping" the internet via these institutions. And every college or university could set up an area on its computers which was public-access. People could come and put down some interesting files. Others could visit and get those files. It was a great way to share large documents as well as archive material for public access.

Once I learned about it, I thought

FTP was the greatest thing since sliced bread. I also discovered that I wasn't the only gamer archiving material for free public distribution. There were a lot of people out there. Gamers truly love to share.

By 1994, when TSR got online, there was a heck of a lot of fan-authored material online. And... I guess their eyes just bugged out. "Why," they must have wondered, "would anyone buy our stuff if there's all this free stuff available?" And that's when the excrement hit the proverbial rotor blades.

Date: Thu, 28 Jul 94 17:28:59 -0400

From: TSRInc@aol.com

To: postmaster@rigel.cs.pdx.edu

Subject: TSR Copyrighted Material

SYSTEM ADMINISTRATOR:

Your site was recently included in a list of noted FTP sites for DUNGEONS AND DRAGONS and ADVANCED DUNGEONS AND DRAGONS gaming material. You should be aware that DUNGEONS AND DRAGONS and all related marks and properties are copyrighted by TSR, Inc. of Lake Geneva, Wisconsin.

You should also be aware that any items created without a specific license are infringements of TSR copyrights. Such items include (but are not limited to) any software, net.books, modules, tables, stories, or rules modifications which contain elements from our copyrighted properties, including characters, settings, realm names, noted magic items, spells, elements of the gaming system, such as ARMOR CLASS, HIT DICE, and so forth. To date, TSR has not licensed any of these net publications.

On behalf of TSR, Inc. I ask that you examine your public net sites at this time and remove any material which infringes on TSR copyrights.

Our intention is to find a way to license these and future creative efforts. In the meantime, remove them from your sites without delay.

Please feel free to contact me with comments or questions. I will refer any pertinent queries to our legal department as soon as I receive them.

Rob Repp

Manager, Digital Projects Group, TSR, Inc.

I tell ya, some days it just doesn't pay to get out of bed. What we have here, my friends, is a serious case of assholeism.

When I first saw this, I had to check the date-stamp to make sure it wasn't April 1st. Were they actually serious? What in Thor's thunder could provoke such an email?

Okay... so I was a bit naïve. I thought that everything had been going fine. You write stuff for use with a given RPG and more people will likely play that RPG. It's a vicious cycle, except that it works to the benefit of the RPG. So why complain about it!? I was simultaneously shocked, disgusted, perplexed, disgusted, relieved (that the email wasn't written to me personally), and did I mention

disgusted? Yes, I was disgusted. How dare they?! Here we've been, writing stuff for this game for years and years, and all of a sudden they want to shut us down? How dare they?

I don't know about the other FTP administrators who received this email, but Trent (he was the guy up in Portland who received this particular copy) was similarly outraged. He intended to fight. What a guy. If I ever have the pleasure of meeting him in person, he's due one fierce handshake, let me tell you..

Seeing that Trent wasn't about to budge, Rob Repp went up the chain of command to Trent's boss.

"Mr. Fiarito," he wrote, "I connected to jove.cs.pdx.edu today,

and was dismayed to find that your administrative staff has still not removed several files which infringe on TSR trademarks and copyrights. Further, I found a notice which states the administrator's intention to keep and disseminate several of these files. I must warn you that these files clearly contain infringements, and that they cannot lawfully be published from your site."

Now, just put yourself in Trent's shoes for a minute. You're a system administrator at the local university. The computer science department needs you there, because, naturally, none of the computer science professors know how to operate an actual computer. They can talk your ear off about the theory behind it,

but they don't have the first clue what to do when the printer breaks down. So you're there, and you're a really valuable employee. Without you, the whole place would come crashing down. But if you're doing your job really well, and you do, then they never even notice you.

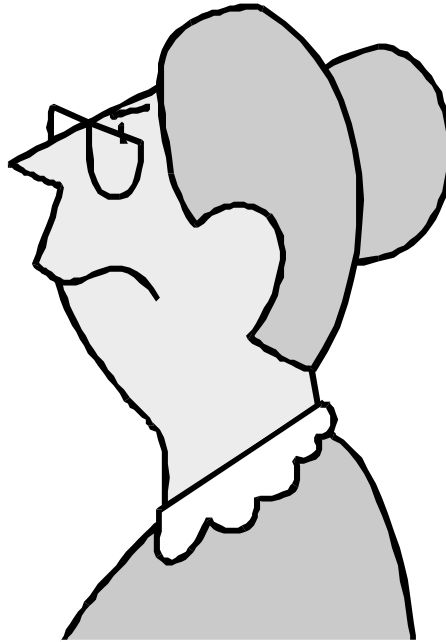
Incidentally, you also happen to be a gamer. So anyway, you get this dastardly email, thumb your nose at it, print it out just so you can have the pleasure of using it for toilet paper, and then what's the bozo do? He writes your boss and carbon copies half the people in the university administration.

I never queried Trent as to exactly what happened, but it's not hard to use one's imagination.

"Let me get this straight," the dean of the college leans over her paper-stacked desk. "You've been using the campus computers to

house collections of documents related to some fantasy game... Dumbtwats & Doldrums?"

"Dungeons & Dragons, ma'am."



"Whatever! In the first place, those computers are strictly for educational purposes... not fun and games. In the second place, don't you realize we could get sued?!"

All I can say, friends, is that I'm glad I wasn't in Trent's shoes that day. First he's got to explain to multiple people in the college and university administrations what D&D is all about. Then he's got to explain why it's worth the risk of being sued. Forget about intellectual freedom. Universities will run like babbling idiots at the first suggestion of lawsuit. We're talking budgets, public money, and careers. Nobody is going to risk their precious hide over some game.

Needless to say, those files finally came offline. Rob Repp had won. TSR had won. Now there was just one more step to complete victory.

From: mobius@Mercury.mcs.com (Rob Repp)
Newsgroups: rec.games.frp.announce
Subject: GENERAL ANNOUNCEMENT
Date: Tue, 06 Sep 1994 16:15:40 -0500
Organization: TSR, Inc.

OFFICIAL ANNOUNCEMENT FOR GENERAL DISTRIBUTION - PLEASE REPOST

Recently, TSR, Inc. issued a policy statement regarding the unlicensed use of TSR owned trademarks and copyrights in several creative efforts published on the Internet. TSR's policy remains unchanged regarding these infringements. We generally ask that you do not publish materials which incorporate our trademarks and copyrights. However, we believe we have a working solution for gamers who wish to exchange via the Internet any gaming material they have created.

TSR is pleased to announce a licensed Internet FTP file server. MPGNet's site ([ftp to ftp.mpgn.com](ftp://ftp.mpgn.com)) will carry a license that allows your creations to be shared with the world via the Internet. In order to distribute your texts, software and message digests via this server, you must include the following disclaimer:

This item incorporates or is based on or derived from copyrighted material of TSR, Inc. and may contain trademarks of TSR. The item is made available by MPGNet under license from TSR, but is not authorized or endorsed by TSR. The item is for personal use only and may not be published or distributed except through MPGNet or TSR.

In text files, this text must be placed at the top of the file where it will be seen immediately. In message logs from list servers, a file containing this text should be added to the archive file with the message texts, or be placed at the top of a compiled text file. For software distribution, a file containing this text should be added to the archive file with the software if the software has already been compiled, or added during development to a prominent display seen by the user when the software is launched.

If you add this text to your work and upload it to [ftp.mpgn.com](ftp://ftp.mpgn.com), you can share your effort with the rest of the Internet. It does not give you permission to upload your creative effort to any unlicensed sites. Please note that you are not assigning any property rights to TSR, Inc. by uploading your work to this site.

At this time, there is only one licensed site for distribution of these materials on the Internet. Presently, there are no mirrors being made available. We are aware of several requests for overseas and duplicate domestic sites. We are working to fulfill these requests. Also, several of the commercial online service providers are working with us to develop online forums which can carry these files.

Thanks for your continued interest in our games.

Rob Repp
Manager, Digital Projects Group
TSR, Inc.

As one might expect, most AD&D players on the Internet were not terribly pleased by all this. Many of us figured that TSR was only one step away from charging gamers to access the archived material which we formerly could download for free. Thus began the TSR/Copyright debate of 1994, which dragged on into 1995, and then 1996, and... well, it was the thread that wouldn't die. I began collecting an archive of posts:

<http://geocities.yahoo.com/jimvassila/debate.htm>

Do check it out if you have an interest in the details of this discussion. One thing that I can never get over when it comes to Usenet is that no matter what question you have or what sort of problem comes up, the information you are seeking is out there, and somebody (often several people)

will come forward to help. This was very true of this debate. We had law students and lawyers come forward. By and large, the general consensus was that TSR had stepped over the line between the protection of its copyrights and the harassment of its fans.

Of course, TSR's in-house lawyer, Connie Lindman, didn't see things that way. Here is what she had to say:

From: mobius@Mercury.mcs.com (Rob Repp)
Newsgroups: rec.games.frp.dnd
Subject: Re: A WARNING TO WRITERS (was Re: .sig free Announcement)
Date: Tue, 20 Sep 1994 10:40:16 -0500
Organization: TSR, Inc.

From our legal department. Enjoy:

Saying that "TSR owns this stuff" does not create a protective spell or duck the issue of authorized use. For example, an unauthorized adventure (derivative work) set in TSR's FORGOTTEN REALMS adventure world (underlying work) infringes TSR's copyrights. Acknowledging TSR's ownership of the underlying work and your unauthorized use does not make you a hero-wizard (it does not exonerate the infringement).

Before you hire a lawyer, here's some copyright law regarding protection (this holds true for all companies): Court decisions on copyright law have held that game IDEAS are not protected by copyright, but the EXPRESSION of those ideas is protected. Thus, the idea of a maze-chase game, or an asteroid game, or a space ship with attacking aliens game is not protected. However, the concrete details of those games are protected.

Here, the idea of a fantasy role-playing game in which players play characters in a fantasy world run by a game master and use dice to determine various aspects of the game is not protectable. The existence of numerous unique fantasy role-playing games is testament to the fact that there are many different ways of expressing the idea of a fantasy role-playing game (*Broderbund v. Unison*). TSR's particular expression of that idea, the AD&D game mechanics, is protected under copyright. The fact that the game mechanics may be described as a "system" is immaterial (*Lotus v. Borland*).

Several people have asserted that a case brought by Palladium against Wizards of the Coast prevents TSR from asserting copyright protection for its game mechanics. In fact, there was no such decision in that case because it was settled before trial. The only order by the court in that case was against Wizards of the Coast on its summary judgment motion.

The whole question as to who's right and who's wrong comes down to where the notion of "idea" ends and where "expression" begins. If the game mechanics of AD&D are an expression, then she's right. If they're a system (in the legal sense of the word), then she's wrong.

That said, there was little point in debating her. I think Shawn Garbett said it best when on 27 Sep 1994 he wrote:

"Does writing an adventure and just including stats at the end that could be used with a game constitute a derivative work? Do you have the legal funds or disposable income to find out? TSR has drawn a line in the sand that would cost a small fortune to find out if it's real. The fact that it would

cost someone to find out how real it is makes the line quite real to most everyone. They could arbitrarily draw these lines anywhere and it would be just too damn expensive to cross them for most of us. That's modern law, that's ancient law, money talks."

Thinking back to Judges Guild, I recall that at some point in their product line, Bob stopped using the term "HP" (hitpoints) and began using "HTK" (hits to kill). Perhaps as far back as the early 80s, TSR was quietly breathing down his neck. I don't really know. But in TSR's favor, the judge in the case of *Crume v. Pacific Mut. Ins. Co.* wrote:

"To hold that an idea, plan, method or art described in a

copyright is open to the public, but that it can be used only by the employment of different words and phrases which mean the same thing, borders on the preposterous. It is to exalt that accomplishment of a result by indirect means which could not be done directly."

In short, the judge seems to be saying that what terminology you use is unimportant. If what you are describing is simply an adaptation of another prior work, then what you are doing is bogus, and the courts shouldn't reward it.

However, that still begs the question, how is writing up a monster a derivation of D&D? TSR is claiming that if you use their stats, then your work is derived from the game. However, in the legal sense

of the term, to “derive” one work from another is to “adapt” or “translate.” Jeff Kesselman, one of the leaders of the debate during its early months, stated it best on 21 Oct 1994 when he wrote:

“TSR has stretched the concept of 'derivative copyright' to the point of absurdity, claiming that even the use of such words as ARMOR CLASS or HIT POINTS violate their copyright. Not only are these not significant enough to be considered breaches, but their entire argument is a fallacy, based as it is around the idea that the rule books and campaign guides are novels. They are not. They are 'works of utility' as recognized by the courts as early as 1878.”

What in Tiamat’s unholy name is a work of utility? Well, utility is just another word for use. If you can use it, it has utility. If you can’t, then it doesn’t. Back in the olden days (I’m talking the late 1800s here), there was a copyright lawsuit involving a book on accounting techniques. The plaintiff sued because the defendant had copied a form from his book (essentially a page which had lines drawn across it marking off columns). The defendant printed lots of copies and sold them. The court decided that because the book, and in particular, the form, was a work of utility, it could not be copyrighted. The judgement set two important precedents for copyright law. First, it established that forms could not be copyrighted, since they are works of utility (in filling them out, you are using them, which is their intended purpose). Secondly, but even more fundamentally, there was suddenly this distinction between using a copyrighted work and “explaining” it. In the words of one legal scholar:

“Where the use of the art, i.e. the idea, which a copyrighted work explains (or embodies) necessarily requires a copying of the work itself, then such copying will not constitute an infringement of copyright. However, if such copying occurs not

in using the art, but rather in explaining it, then such copying will constitute an infringement.”

This is crucial to the question of RPGs, because what the case seems to be telling us is that it’s okay to copy to the extent that copying is required in order to use the work for its intended purpose. TSR would likely argue, “Well, sure we created this format for describing monsters and spells and so forth, but we never intended for you to create your own much less distribute your work. That’s something that you guys did on your own. We didn’t give you license. That wasn’t the intention of our work. Our intention was just to allow you to use our spells and monsters... not each others.”

To which we might reply, “Hey, you guys certainly didn’t lift a finger to stop us while the game was still young and catching on. You knew full well that it was the spirit of openness and cooperation which was driving the popularity of the game. Besides, what is it to you if we want to expand the game to our own tastes, adding features that you may have never even considered and sharing our ideas as we see fit?”

These arguments can go back and forth



until the stench-kows come home. Realizing that, I finally decided in 1995 that it was time to act, and so I offered myself up as a legal guinea-pig on the theory that public pressure could force TSR to agree to take the whole issue before a judge.

What am I talking about here? Well, I keep going back to Shawn’s statement, “TSR has drawn a line

in the sand that would cost a small fortune to find out if it's real.” And he’s right! As any lawyer worth his “lie convincingly” proficiency can tell you, defending your legal rights against “nuisance suits” can be very expensive. Even if you win, you can still end up broke.

But what if there were a way to test the line without spending a small fortune? What if we could just go before a judge and say, “Judge, your honor, your worshipfulness, here’s the issue. We want a ruling, and we don’t want to spend a lot of money, so no lawyer-games, okay? Here are the facts of the case. They’re in writing. Those are our signatures there at the bottom. Just speaketh your wisdom so we may know the right from the wrong. Be good and we’ll give you a noogie when this is all over.”

Well, as it turns out, there is a way to do just that, and it’s called a summary judgement. The idea is that before you get into the courtroom, both sides agree beforehand on all the facts of the case, so that the lawyers don’t have to waste a lot of time arguing about them in front of a judge and the court doesn’t have to waste any time arriving at what it considers the facts to be. If both sides go into court with total agreement as to the facts, then all that is left is interpreting the law and applying it to those facts. This, of course, only the court can do, but the court’s work is minimized (as is the work of the lawyers). The less work the lawyers have to do, the less expensive the whole thing becomes (comparatively speaking).

What I figured, in my usual idiocy, was that I could simply write TSR’s lawyer and see if we could do this as cheap as possible. I ran the idea by TSR’s new online representative, Sean Reynolds. He said that I’d better send it snail-mail, as legal correspondence and email don’t mix, so I sat down and wrote the letter.

August 31, 1995

Ms. Lindman:

It has come to my attention during the past year that TSR has erected a policy on the Internet which forbids individual players of the AD&D roleplaying game from freely distributing, without charge, materials which they have written which are compatible with and which make use of the terminology of the AD&D game system, such as adventures, spell books, monster databases, character sheets, and the like.

I have exchanged email with Sean Reynolds, TSR's Online Representative, on this topic. He is apparently attempting to gather a list of "generic" terminology (that is terminology which is used by both TSR and at least one other game system) which he purports is usable by individuals on the Internet.

I have two questions for you.

First, which of the following terms (if any) does TSR classify as "generic" rather than as AD&D-specific, and can they be used in net-publications with their AD&D meanings assumed: Strength, Intelligence, Wisdom, Dexterity, Constitution, Charisma, Comeliness, Frequency, # Appearing, Armor Class, Move, Hit Dice, Hit Points, % in Lair, Treasure Type, # of Attacks, Damage/Attack, Special Attacks, Special Defenses, Magic Resistance, Alignment, Size, Psionic Ability, THAC0, Experience Points, Level, Range, Duration, Area of Effect, Components, Casting Time, Saving Throw, and Speed Factor?

In the event that TSR allows all or most of these terms to be used freely on the Internet with their AD&D meanings assumed, I think that most people will be satisfied enough to let the issue drop. However, in the event that TSR does not allow the free use of this terminology, I think that there are those of us who might want to take the issue before a judge, depending, of course, on how much it'll cost to get a judicial verdict on whether or not this terminology is copyrightable in the first place, and if so, to what extent it can still be used in a freely-distributed, third-party game supplement or module.

My second question, then, is whether or not TSR would be willing to take the terminology issue to court. I could write an AD&D-compatible adventure which makes use of all of the game-terms listed above. Would TSR be willing to seek injunction against my free distribution of that module so that we could both appear before a judge, make our arguments, and get a verdict as to this issue?

Thank you for your time and consideration in answering these questions. I will be sure to post your reply to the Internet for others to see.

Sincerely, Jim Vassilakos

And here was her reply:

February 14, 1996

Dear Mr. Vassilakos:

This is to respond to your letter enquiring about the use of AD&D game terms and TSR's response if you were to write and distribute an AD&D adventure outside TSR's authorized on-line sites. I realize that several months have passed since your letter and I apologize for the delay. More urgent business has kept me well-occupied and I wanted to give you a complete and thoughtful response.

Your question about ownership of terms is a red herring. The real question is whether your work is "based upon" TSR's copyrighted AD&D game. If so, then your work is a derivative work and, unless you have TSR's permission, it infringes TSR's rights. It doesn't matter whether you write an AD&D adventure using actual AD&D terms or you write the same adventure using code terms (e.g., Alpha = Strength, Beta = Dexterity, etc.). If the adventure is written specifically for the AD&D game, then it is based on the AD&D game and is an infringing derivative work. On the other hand, a generic adventure that could be adapted by the reader to any fantasy role-playing game would not infringe TSR's rights. In that case, the adventure is not based on the AD&D game or any particular fantasy RPG.

If you deliberately infringe TSR's rights, TSR will take appropriate action at the appropriate time. There are too many factors that go into such a decision (including direction from upper management) for me to give a definitive answer to your hypothetical.

If you want to file suit, you could ask a judge to "declare your rights" in this matter. In order to maintain the suit, you would have to prove to the court that an "actual controversy" exists. (The purpose of the "actual controversy" requirement was explained by the Supreme Court in *Public Service Comm'n v. Wycoff Co.*: "The disagreement must not be nebulous or contingent but must have taken on fixed and final shape so that a court can see what legal issues it is deciding, what effect its decision may have on the adversaries, and some useful purpose to be achieved in deciding them.")

In the intellectual property area, courts generally (but not always) require that the rights holder (in this case TSR) have specifically threatened the plaintiff (you) with litigation. Other pertinent facts are also considered in order to determine whether the parties are improperly seeking an advisory opinion. I do not believe there is an "actual controversy" in the legal sense at this time. Of course, you (and your attorney) may disagree.

I hold no illusion that you will be satisfied with this answer. I hope at least that you will take a few moments to consider my comments and put yourself in TSR's place. You may still disagree with me, but perhaps you will better understand TSR's position. For myself, I do understand your frustration in not having an substantial number of TSR-authorized Internet sites on which to share your creative endeavors with others. We are working on this problem and expect to open a large web page (possibly mirrored to other sites) in the near future. However, corporate wheels turn slowly even in this fast-paced modern age. We don't have an ETA for the web page at the moment, but Sean and Jim will keep you posted.

Very truly yours, Constance R. Lindman, Corporate Counsel, TSR, Inc.

I suppose I could have stood up and squawked about her refusal to sue me, but to be perfectly honest, I was somewhat relieved. After all, I didn't really want to be a legal guinea-pig. The idea just hit me in a moment of stark, raving madness.

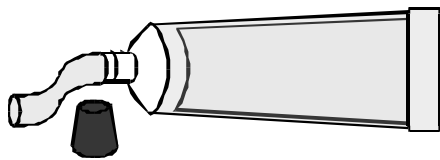
Nonetheless, I was still convinced that we, the gamers, were being royally screwed out of our rights and freedoms. To that end, I constructed an archive of files related to the debate, partly in the hope that it would help educate

gamers about the intricacies of copyright law, and partly in the hope that it would serve as a permanent reminder of what TSR had done, so that those who would come online in the years to follow would have an opportunity to learn

what had happened to shape industry standards prior to their arrival.

For me, this issue of industry standards was really critical, because, like most of you reading this, I can clearly remember a time when the standard operating procedure was that anybody could produce supplements for any roleplaying game, and it was perfectly okay. You might not be allowed to market your supplement as an “AD&D supplement” or a “Traveller supplement”. That would cause consumer confusion as to who was producing the damn thing, and hence would be a violation of trademark law. However, you could market your supplement as being “For use with AD&D” or “For use with Traveller”, or if you wanted to be especially safe, “Not approved for use with AD&D” or “Not approved for use with Traveller”.

I realize this is getting nitty-gritty, but that’s the difference between trademark law and copyright law. With trademark law, it’s all about consumer information, making sure the average dummy realizes that what he’s buying isn’t the real-deal. It’s about awarding quality and brand loyalty, so that when all his teeth rot out, he can’t say “Oh, those damn people at Cavities Inc. are responsible for this. They fooled me and made me think I was buying Crest.” No. If his toothpaste says “Crest” than it’s by “Crest”. Thank you trademark law.



Copyright law is completely different. It’s all about making sure that you aren’t copying somebody else’s work and capitalizing on it, hence stealing money out of their pocket. The whole question comes down to what constitutes copying. When is it fair and when is it foul? And, as to be expected, there are grey areas, particularly when it

comes to new areas of expression like, for instance, roleplaying games.

But, like I said, for a long stretch of time, from the 1970s and through the 1980s, there were quite a few companies producing AD&D-compatible supplements and adventures. Judges Guild and Mayfair come immediately to mind. Judges Guild came out with City State of the World Emperor in 1982 (set in the same world as Invincible Overlord) which also happens to be the same year that Mayfair published Dwarves, part of a line of books specializing on various races and monsters.

And before anyone states that these products were licensed, let me just kill that notion right now. On the cover of Dwarves it states in large type: “A Complete Kingdom and Adventure suitable for Advanced Dungeons & Dragons” and then down below in small type: “Advanced Dungeons & Dragons is a trademark of TSR Hobbies, Inc. Use of the trademark NOT sanctioned by the holder.” Their emphasis, not mine. Only a year later, North Pole (a little known games publisher) came out with the Tome of Mighty Magic, a book that has magic-user spells which look to be compatible with AD&D but which go up to 20th level instead of stopping at 9th.

Back in the early 80s, these were the standards of doing business. In 1993, when TSR finally got around to reinventing these standards, they sued Mayfair, alleging, in part, that Mayfair’s line of “Role Aids” were being marketed in a way that devalued the AD&D trademark. What happened, according to the little bit that I’ve read, is that Mayfair was promoting the “Role Aids” product line as being suitable “for any fantasy role-playing game on the market” as well as for AD&D. TSR asserted that “*Mayfair’s advertising campaign promoting ROLE AIDS modules as suitable for any fantasy role-playing*

game on the market harms the reputation and goodwill of the ADVANCED DUNGEONS & DRAGONS mark as representing a unique brand of products.”

The Judge thought this allegation was “nonsense”, and he said as much in his opinion:

“If the producer of Gatorade claims its drink is great for football players and also claims it is great for participants in any high-energy sport, is it reasonable to argue that football is at risk of becoming generic for high-energy sports as a result thereof? Indeed, the restriction that TSR incorrectly contends was violated in the respect now under discussion is the one aspect of the Agreement that appears to find no legitimate justification in TSR’s trademark rights. It seems to be purely anti-competitive and hence likely unenforceable as an unlawful extension of the trademarks.”

The important thing here isn’t that TSR was making a silly argument or that they were having their competitors sign anti-competitive agreements. The important thing here is that even as late as 1993, the courts recognized that there were standards of doing business in the roleplaying games publishing industry that basically said that competitors could publish materials related to and/or supplementary to any gaming system they chose. The judge recognized these standards, and his opinion eloquently illustrates this recognition. TSR, of course, was trying to bury these standards and set up new ones.

My fear at the time was that TSR might only be the first roleplaying games publisher which would try to do so. After all, we should recall that AD&D wasn’t the only roleplaying game for which other companies were producing material. Traveller-related products were also a hot item. FASA, Gamelords, Judges Guild, Paranoia Press, and DGP were all involved in producing Traveller supplements and

adventures.

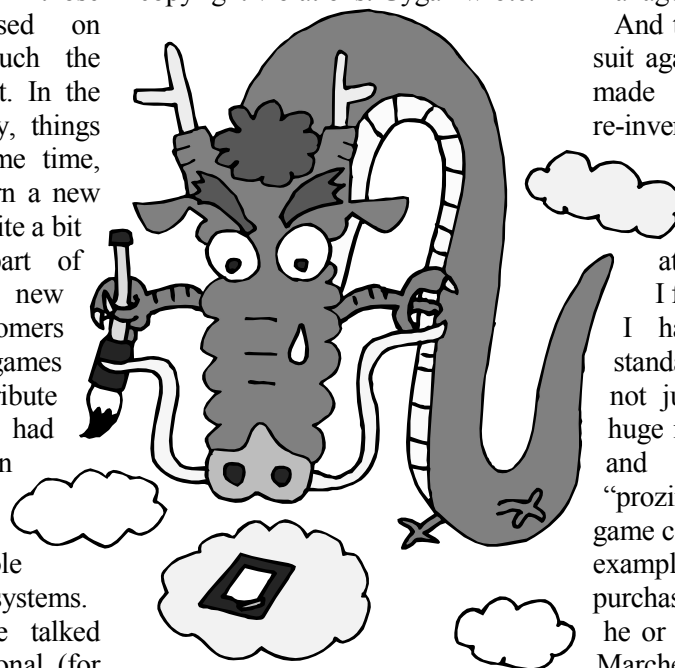
I think only the big games (AD&D and Traveller) attracted this sort of attention. And why shouldn't they have? They were the first games on the scene, and timing was absolutely critical when it came to grabbing market share. It takes more than a little effort to learn a new game system, and so the first game systems naturally had a huge advantage in terms of keeping market share.

Remember, a roleplaying game isn't like a disposable razor. If you know how you use one lawn mower, you pretty much know how to use them all. Likewise with cars that you drive or fast food that you eat. Customer loyalties in those industries are all based on advertising and how much the customers like the product. In the roleplaying games industry, things are different. It takes some time, effort, and patience to learn a new game system, so there is quite a bit of hesitation on the part of consumers to invest in a new game. Hence, many latecomers in the roleplaying games industry decided to contribute via systems that people had already learned rather than re-invent the wheel and hence force the consumers to learn a whole slew of entirely new game systems.

Of course, so far I've talked exclusively about professional (for profit) competition, but the fans themselves were also contributing material to the hobby, usually on a for-the-fun-of-it basis, and since I am writing this essay to you, the fans, it would be negligent of me to forget this contribution. As I recall, quite a number of small roleplaying fanzines flourished during the 70s and 80s. I couldn't even begin to give you an estimate of their number, but I should not be in the least surprised if they amounted to over a hundred. These fanzines had free reign to publish "compatible" materials. Of course, they had to use

a game's "terminology" to make their articles compatible. No special permission was required. It was assumed, and as far as I know, the large game companies (TSR and GDW) didn't complain.

Well, that's not entirely true. I do seem to recall Gary Gygax ranting about the fan-press (including this very APA) in one of the early Dragons (was it #11?). However, it is interesting to note that as late as 1989, Gygax wrote a book which, among other things, encouraged the publication of fanzines (and prozines). With respect to their content, he encouraged editors to publish the very materials which TSR was (in 1994) purporting were copyright violations. Gygax wrote:



"There is nothing quite so appealing as a good game-scenario for a popular RPG. A short unique adventure does attract readers (and play). Expansion materials for a widely played RPG are also popular. Good new classes of adventures, monsters, spells, and magic items for the AD&D game are good, for instance." (Master of the Game, Chapter 12: How to Create Your Own RPG Publication, pg.139)

This, to me, sounds like explicit authorization to create such works. Gygax, in 1989, was advocating

what TSR, in 1994, seemed to be prohibiting. I found this policy flip-flop so confusing that I even wrote Rob Repp about it. His reply: *"The Copyright/Trademark Policy was formalized during the past year in response to an internal management directive."*

In short, it seems that TSR is saying, in effect, that prior to 1994, TSR was condoning (even advocating) the free and unconstrained publishing of (in the words of Mr. Gygax) "adventures, monsters, spells, and magic items for the AD&D game." Then, in 1994 or thereabouts, according to Rob's statement, this policy was reversed due to an "internal management directive."

And this is consistent with TSR's suit against Mayfair in 1993. They made a conscious decision to re-invent the "standards of doing business" sometime during the 90s, and as a result, we the fans were under attack.

I found this rather annoying, as I happen to prefer the old standards. They worked quite well not just because they allowed a huge number of fanzines to thrive and to aspire to become "prozines", but because they kept game companies in competition. For example, if a consumer wanted to purchase a star sector for Traveller, he or she could buy the Spinward Marches from GDW, or the Glimmerdrift Reaches from Judges Guild, or the Beyond from Paranoia Press. The bottom line is that the consumer had a choice, and that kept the game companies in competition, and with competition came better quality, new ideas, and a flourishing marketplace.

Contrast that with the situation during the mid-1990s.

TSR had just begun publishing a series of works entitled The Encyclopedia Magica which were essentially a list of a bunch of magic items along with their descriptions. A good idea, right? Well, one of the

editors decided to do a global search-replace on the first book of the series. They decided to change every occurrence of “mage” to “wizard”. As a result, every occurrence of “damage” became “dawizard”. Now, you’d think that somebody over there would have done one final proofread before they’d send this book off to the printers, right? Wrong. TSR had a captive market. They didn’t need to proofread.

TSR, of course, was not alone in these sentiments. GDW was close on their heels. The Errata for MegaTraveller was getting to the point where they could have made it into a whole separate book. It was so bad that the joke when Traveller:TNE came out was that TNE didn’t stand for “The New Era”... it stood for “The New Error”.

I recall the Traveller Mailing List on the Internet complaining vociferously when T:TNE came out, because within about two weeks of the release date, several people on the mailing list had compiled an errata sheet about a mile long. They wondered why GDW didn’t give them a sneak preview to fix all the mistakes in the new version. Think about it. The fans were willing to do the editing themselves.

In what other industry are standards of quality so utterly atrocious that the consumers are offering their services for free just so they can get a decent product? Only in the roleplaying publishing industry.

These companies had no competition because of these new “standards of doing business” which TSR has invented. Half the customers were rolling around on the floor laughing, the other half were whining about how shoddy everything had become, and the rest were too new to gaming to have ever known a time when things were better.

So we come back to the question. What sort of standards of doing

business would be favorable to us as consumers over the long term? Based on all the arguments above, I’d have to conclude that in order for standards to be favorable, they should promote competition between different roleplaying games publishers within the markets of individual roleplaying games. We got a wider variety of material back then, when Paranoia Press and Judges Guild and GDW all produced sectors for the Traveller Universe, and when Judges Guild and Mayfair and TSR all produced adventures for AD&D. That is the sort of standard we should have if we want our long-term interests as consumers to be provided for.

Now, I was talking with one fellow about this via email, and he brought up an interesting point. “Here’s a thought for you: what if TSR re-wrote the Cyberpunk 2020 game book (in an original, clever, and pretty way) and did not copy the actual text? If the game mechanics are not copyrightable, this would be legal, no?”

There is a distinction here we have to remember. If I re-write AD&Dv2 and release an AD&Dv3, that should count as a derivative work (in the legal sense of the term). And since this work would be competing against the work it was derived from (AD&Dv2), that would be a strike against it in terms of it being a case of fair use. Take, however, the example of TSR writing a module for CP2020. In this case, the module will incorporate terminology from the game system, but would it be derivative of the game system in the legal sense? I think this would be a hard question for the courts to answer. However, even if they did say the work was “derivative”, then you have to ask, is it a fair use? Well, does the module compete against the game system from which it was derived? Of course, not. If anything, TSR’s support of the game system ought to enhance its sales, not detract from them. In this case, TSR would have produced a

supplementary work for use with CP2020, and the makers of CP2020 ought not to be able to do anything about it.

I personally feel that RPGs ought to be a special case under the law, and that there should be a distinction made between supplementary game aids and actual “re-writes” of game systems. One is a supplementary work. The other is derivative. One enhances sales of a given rpg. The other competes with those sales. Never mind that TSR’s adventure for CP2020 may compete with FASA’s adventure which would compete with GDW’s adventure and so on. These adventures are not derived from each other. At worst, they might be derived from a common game system (CP2020). More likely, they just incorporate terminology invented in that system.

I think this is how the law ought to be. I can’t say if this is how the law is or if this is how it will be interpreted in court, but these are my feelings on how I would interpret it in order to create the best marketplace for the consumer.

To be perfectly honest, I would even go a step further. I had my way in putting together an industry-wide standard, I would make it such that monsters, spells, magic items, races, equipment, and all those other things (which I classify under the general heading of “props”) ought to become a common resource which all game companies may reference in their products. For example, if I write a new monster for Talislanta, I think that TSR should be able to reference it in one of their adventures so long as they don’t quote my entire description word for word but just stick to the stats and leave a little note telling the consumer which gaming product to purchase for more information. I think this sort of cross-pollination would lead both to better roleplaying game products and to greater competition (both in terms of quality and in terms of price).

One might call this somewhat extreme set of standards “the standards of freedom”, as they probably allow as much latitude to game companies as possible without stepping over that line into clear cases of illegal infringement.

Of course, while the “standards of freedom” which I just proposed might seem like the ideal course to some people, I should mention that Thomas (the guy I was exchanging email with) brought up an important criticism. He said that some companies might rely on the sales of adventures and supplements after the initial revenue from the game system to stay afloat, and that with TSR (the big company with the most money for production expenses and artwork) stepping into such an industry-wide policy, they might be able to absorb the entire roleplaying games industry just by producing modules and adventures for every game on the market. In short, a lot of smaller companies might go under due to such a legal framework, which would probably be a bad thing, as the more companies you have in the market, arguably the better it will be for the consumer in the long run, and that’s the bottom line goal... to have a legal framework which maximizes the consumer’s long-term joy.

For myself, the TSR/Copyright debate came to an abrupt end when Wizards of the Coast purchased them. Peter Adkison, WotC’s founding janitor and CEO, was a gamer at heart. He understood the issues (having been recently sued by Palladium over a half-page of conversion notes in the back of Primal Order he understood them rather well). Perhaps I should back up a bit and explain this minor flap in RPG history.

Peter wrote Primal Order as a cap-system. That is to say, the idea was that it would be a generic supplement about gods, giving gamemasters a way to handle deities in their games. However, in making it useful to gamemasters, Peter

realized that he’d have to include some method for converting his terminology into that of various popular fantasy RPG systems on the market. To that end, he enlisted the aid of a wide assortment of gamers on the Internet to write these conversion notes. When Primal Order finally came out, the appendix in the back looked like a veritable who’s-who of rec.games.frp.misc. There were conversion notes there for all sorts of game systems, and they were written by a multitude of different people. Incidentally, the product got glowing reviews in the magazines, and people still talk about it even today as being the primary resource on creating deities for fantasy RPGs.

Now, it might have been prudent to write each game publisher and ask for permission to include these conversion notes, but it was such a small thing, Peter didn’t feel it necessary. After all, who in their right mind would get upset about him wanting to support their game? So he published and Palladium sued. Keep in mind, this was WotC’s first product. They were incredibly new and incredibly cash-poor at the time. This little lawsuit threatened their very survival. Needless to say, even though it was clearly ridiculous, they decided to settle out of court rather than be sacked by attorney fees.

Shortly thereafter, Magic: the Gathering was released, the CCG craze hit the industry like a thunderbolt, and quite suddenly, WotC was rolling in dough. Everyone thought that WotC would continue to focus exclusively on their cash cow, but even after they dropped RPG divisions as being unprofitable, I knew in my gut that they’d eventually come back.

Y’see, I had the fortune to spend a few evenings with Peter before M:tG was released. We ate pizza and watched some video in one of my friend’s cockroach-infested apartments, and over the course of

those few evenings, I got a sense of what he really wanted in life. Well, more than a sense, actually. He flat out told me. He said that he was awed by the power of roleplaying and by the ability for it to lead otherwise lazy kids toward educating themselves in math, history, the sciences, not to mention creative writing. He saw games, and the roleplaying hobby in particular, as having enormous possibilities to benefit education, and his long term goal, he said, was to create and market products which would do just that.

Now, as we all know, life has a way of getting in the way of our dreams. This is true for all of us. In Peter’s case, the unexpected happened. M:tG was a huge success. Actually, that’s a serious understatement. M:tG was blowing everything else out of the water. I think he hoped that the game would



be a success, but he never dreamed that it would be as successful as it was. Quite suddenly, he found himself as the CEO of this huge company, and there were hundreds of people, from employees to stockholders to distributors, whose livelihoods and families depended on *him* keeping the ball rolling. It was a heck of a lot pressure for a guy who just wanted to contribute his two-bits to the hobby and hopefully make a positive difference.

Lo and behold, he eventually had to cut RPGs out of the company plan. He found good homes for them. It was more than a lot of companies do. Years later, and I have no idea how this happened, he suddenly got the opportunity to buy TSR. Whamo! Instead of Lorraine Williams, heiress of the Buck

Rogers estate, in control of the TSR's copyright policy, we suddenly had a guy who grew up as a gamer, a guy who'd been sued over some lousy conversion notes!

He's one of us. Sure, he's rich, but he wasn't born into the money. He knows where he came from, and he knows that people in positions of power have a responsibility to do the right thing.

Now, I can see you all rolling your eyes at me. "There goes Jim again... he's finally lost it. Somebody grab a straight-jacket." Well fine... be that way. I try to inject a little bit of idealism into this sordid article, and look where it gets me.

But listen... before you throw me in that padded cell, just consider a few things. The day after the TSR purchase was finalized, what did Peter do? Did he sit there like his predecessor, folding his arms and saying "I have all... you have none... bwahahaha!" No, he rewrote TSR's policy. He made it into something that was pretty agreeable to most every gamer on the Internet. The TSR/Copyright debate had come to an end, and a good one at that.

Furthermore, his copyright policy has always been to err on the side of lenience. Even in mid-1995, when M:tG was selling like hotcakes, Jeff Franzmann wrote:

"I've been doing a series on Magic: the Gathering for well over a year over on rec.games.trading-cards, which has been very well received. It's even spawned a mailing list with recipients all over the world. Has WotC threatened me with legal action for using references to Magic: the Gathering cards (each and every post contains references to numerous WotC trademarks, in a gaming capacity)? No. In fact, I'm even discussing the possibility of having the world on the mailing list made semi-official. Kathy Ice from WotC has informed me that the WotC WWW page may even have a pointer to the mailing

list. The series is archived on one of the official WotC homepages (Tom Christiansen, who I have to thank for all the time and effort he's put into it, putting everything into html format)."

Wow! What a difference a CEO makes. Let me take this even a step further. Back when I was busy working on the TSR/Copyright archive, I began contacting various RPG publishers to get their copyright policies. Most all of them sent me back emails which were favorable, very much in support of the free distribution of fan-authored material. However, only one of these companies took it upon themselves to contact me out of the clear blue sky. Guess which one. It was WotC, and their copyright policy was as favorable to the fan-press as it gets. I can't help but think that this net-friendly attitude began right at the top, with Peter, and with the people he chose to help him carry his dreams to fruition. Hence, with WotC acquisition of TSR, the stage was finally set for a return to the good old days, a spinning in full-circle, if you will. That, I believe, is what is about to happen.

I'm sure everyone here has heard about D20 and the OGL. If you haven't, then pull your head out the sand. OGL stands for Open Gaming License. WotC tells us that it will bring us back to the days when anyone could publish AD&D supplements, adventures, what have you... and that they could publish them for profit. This is something that most of the other RPG companies still won't allow even though they'll turn a blind eye to free-distribution and the fan-press.

For various reasons, however, there are people who are annoyed about this impending development. Some have even called it a scam. Until we see the final license in its approved form, it's sort of hard to fully evaluate it, however, I'll talk briefly about what the license purports to do, and I'll also talk about three of the main criticisms.

First, the OGL purports to be a "Copyleft" mechanism, analogous to the Gnu Public Documentation License. The basic idea is that WotC will open the D&D game system in such a way that nobody need fear being sued ever (regardless if Hasbro decides to reverse the policy several years from now). Anyone who wants to publish his or her monsters or spells or adventures may do so. However, in so doing, they are contributing their work to a common pool, a sort of public domain, which other people may build upon. The trick to all this is that if you use somebody's work in such a fashion, then your work must also be contributed to this common pool. And so on and so forth, a great ocean of OGL material would be built, open to everyone who agrees to contribute their own work in such a fashion.

To me, this is like the best of all worlds. I couldn't have imagined a better way of doing things. Sure, I suppose WotC could have just chucked the entire game system, settings and all, into the public domain. It would be crazy, but they could have done it. But this is so much more satisfying. What they are saying, as I interpret it, is that if you want to use their ideas, then allow others to use your ideas. Put the game into a quasi-public domain for those who are willing to play by these rules. Personally, I think it's genius.

However, there are criticisms. As promised, I'll cover three of them. The first is that WotC can still publish "closed material", that is, material which does not fall under the OGL but which is clearly AD&D-related.

Competing publishers apparently do not have this luxury unless they purposely separate their closed-content material such as setting information from their open-content material... everything that needs stats.

Secondly, the OGL would allow WotC to publish fan-authored material for profit without the

consent of the author and without paying any form of compensation. Of course, under the terms of the license, anyone would be able to do this, not just WotC.

Finally, there has been criticism directed toward one of the key OGL proponents within WotC, a high-level manager by the name of Ryan Dancey.

Apparently, he's stated publicly that he wants to drive competitive game systems from the market, and he hopes to make it very difficult

for small companies to enter the market with new RPGs. Whether or not the market is segmented more than is healthy is still a topic of debate. As for wanting to run his competitors out of business, that is the nature of capitalism. I can't really apologize for his statements since I've never even met the guy, but for better or for worse, much of the public discussion has focused on him.

In any case, if this OGL thing does take off, then perhaps some of the other major systems (GURPS, etc) might be prompted to follow suit (hence making their own set of standards more available for copyleft purposes). I don't think that would be such a bad thing. In fact, I wonder if Steve Jackson were proposing the OGL rather than TSR, would there be such an uproar over it? In short, does the current sentiment against the OGL have anything do with TSR's public relations fiascos of the past, and if it does, then are people really being fair to the new management?

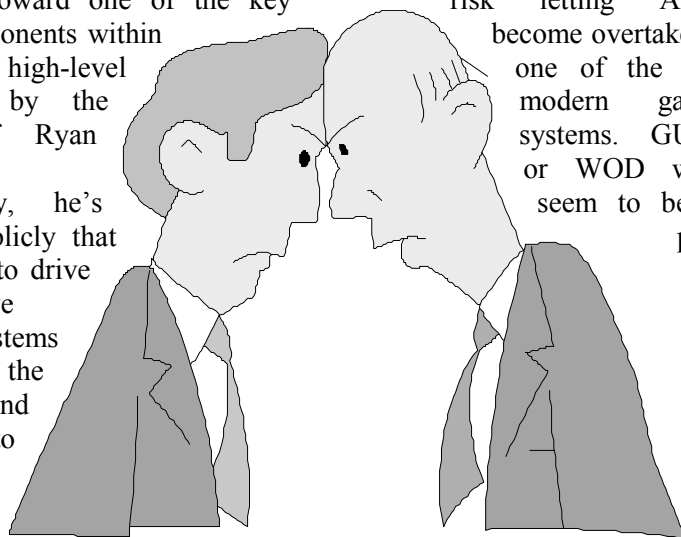
If you want to look at this whole thing with a cynical eye, I can see how the case could be effectively made that WotC has to do put forward the OGL (thus enlisting the aid of 3rd party publishers) or risk letting AD&D become overtaken by one of the more modern gaming systems. GURPS or WOD would seem to be the prime

best. I wondered to myself if perhaps TSR's big mistake had been closing off competition within the AD&D market. By declaring AD&D a TSR-only domain and not allowing anyone to professionally publish unlicensed products for the game, they had unwittingly ensured their own decline because it forced this proliferation of systems and the subsequent segmentation of the overall RPG market. Now the new management is desperately trying to backpedal and undo the damage the previous TSR management has caused.

And what about that management? Just what sort of people were they?

I'm not going to stoop to naming names, but Peter informed me about how a certain TSR employee (one of the old guard) came up to the table of a small game company at GenCon where there was sitting someone who would shortly become one of the first WotC employees. Words to the effect were that, "You're a 3rd world gaming company; when you become 2nd world we'll squish you like bugs."

Flash-forward ten years. WotC now owns TSR. Ah... the brutal irony of fate.



candidates at the moment.

This whole notion reminds me of one of the conversations I had with Adkison back before he'd struck gold. As we were driving to one of the local gaming shops, he mentioned with some smugness that the little guys had been slowly chipping away at TSR's market share each year, and that it was only a matter of time before the big, invincible giant would go down due to the cumulative erosion. Being first had counted for a lot, but it ultimately it wouldn't replace being the

