

Part 1:

It is tough to spend any amount of time on the internet and not run into some form of fan-created art that is based off of an existing copyrighted material. On Facebook, Tumblr, and YouTube, artists are creating and uploading drawings, mash-ups, and even short films based on their favorite television shows and movies. Depending on the nature of these creations, these artists could be infringing on copyright. That is, unless their piece can be protected under fair use. The case of “Power/Rangers” a short film posted on Vimeo in February of 2015 sparked a debate over whether or not this fan-created work was a fair use or an infringement of copyrighted material.

“Power/Rangers” is a fourteen minute-long film directed by Joseph Khan and produced by Adi Shankar. It is a dark and violent story that features characters from the *Mighty Morphin Power Rangers* in an original story. The filmmakers did not ask the copyright holder of *Mighty Morphin Power Rangers*, Saban Brands (owned by Haim Saban), if they could use their characters in this film. Shortly after “Power/Rangers” was posted on Vimeo, Saban Brands requested that the video be removed from the website, saying that the film infringed on their copyright. Under the stipulations of the Digital Millennium Copyright, Act, any infringing material can be removed from websites at the request of the copyright holder. In compliance to the DMCA and Saban’s request, the film was subsequently removed from both Vimeo and Youtube (though somewhat ironically, the video received a “Staff Pick” award on Vimeo a few hours before it was removed). Following the removal of the film, Khan and Shankar began fighting to get “Power/Rangers” back online, claiming that it was a fair use of the copyrighted characters. In addition to claiming fair use, the filmmakers also emphasized that they shot all of their own, original footage and

did not use any specific scripts or footage from any pre-existing *Power Rangers* episodes or movies. They also claimed that they were not making any profit off the film, and were making it available completely free to the public.

This case never went to court and the matter was settled privately between Saban Brands and the creators of “Power/Rangers”. In the end, Saban allowed Khan and Shankar to continue circulating their film online, but it had to contain a new disclaimer, stating that “Power/Rangers” is a fan-made film does not claim any rights to the characters, and that it was made without any affiliation with Saban Brands. Though the film is now back online and readily available, the question still remains: would “Power/Rangers” be protected under fair use in a court of law, or does it infringe Saban’s copyright?

In determining whether a use of copyrighted material is a fair use, there are four factors to consider: the purpose and character of the new work, the nature of the original copyrighted work, the amount and substantiality of the copyrighted work used in the new work, and the affect on the market value of the copyrighted work.

In regards to the purpose and character of the new work, it can be argued that “Power/Rangers” is a parody of *Mighty Morphin Power Rangers*. Parody is commonly associated with comedy and using humor to comment and critique an existing work. Though “Power/Rangers” does not have the tone of a comedy (it is a gritty, dark, and violent depiction of a dystopian future that the Power Rangers now inhabit), it does appear to be poking fun at the original material by transforming it into something far different than it was originally intended to be. *Mighty Morphin Power Rangers* was a children’s show that featured corny and humorous dialogue, lighthearted action sequences, and an over-the-top bright color palate. “Power/Rangers” is a stark departure from that. It was made

for mature, adult audiences and features the Power Rangers cursing, doing drugs, engaging in sexual activity, and fighting in brutally realistic combat scenarios. By putting the characters in these adult-themed scenarios, “Power/Rangers” pokes fun at the cheesiness of the original franchise. As it can thus be considered a parody, the purpose and character of “Power/Rangers” would help qualify it as a fair use.

The second issue that must be considered is the nature of the original work, which in this case is *Mighty Morphin Power Rangers*. One thing that cannot be disputed is that the Power Rangers are copyrighted characters. They are featured in their own television series as well as movies, video games, and toys. Television and movies are highly creative works fixed in tangible expressions. Thus, the nature of the original work is that it is protected by copyright.

The next factor to be considered in determining if a use is a fair use is the amount and substantiality of the work used. One of the arguments that Khan and Shankar used to defend their film under fair use was that their film is an original concept comprised solely of footage they shot especially for it. “Power/Rangers” does not contain any footage from any pre-existing Power Rangers films or television episodes, nor is it based on any of the pre-existing scripts used for those shows. The only thing that it does utilize is the Power Rangers characters themselves. This is a tricky area to consider. It is only a short, fourteen-minute long film, but at least one of the Power Rangers appears in nearly every shot. While this may seem to push the bounds on what could be considered an acceptable amount of a copyrighted work to use, as “Power/Rangers” is a parody, it would need to include the Power Rangers in most of the plot in order to get its point across in lampooning the original work. Therefore, “Power/Rangers” would also be protected under fair use in this area.

The final factor to examine is whether or not “Power/Rangers” affects the market for *Mighty Morphin Power Rangers*. The original series was geared towards a young audience, as evidenced by the fact that it aired on Fox Kids and was heavily marketed with toys and games for children. Further bolstering the idea that “Power/Rangers” is a parody is that, as it is made for adults. It features much darker and more mature scenarios than the original series and explored heavier themes. “Power/Rangers” thus an entirely different audience than *Mighty Morphin Power Rangers* it does not threaten the market for the original work.

In conclusion, “Power/Rangers” would likely be protected under fair use because it parodies *Mighty Morphin Power Rangers*. As established in the case of *Campbell v. Acroff-Rose*, parodies are protected under fair use and do not qualify as copyright infringement. Also helping the case are the fact that the filmmakers are not profiting off of the film, and the film does not affect the market of the original copyrighted material as it is geared towards an entirely different audience. Considering all of these factors, “Power/Rangers” is a fair use, not a copyright infringement.

Part 2:

Copyright issues are a major concern for film archives, especially when digitizing films and making them accessible to patrons, whether it be by uploading them to a website or organizing a public screening. Even if a film archive does not have the rights to a work they have digitized, there are still situations where they could use parts of copyrighted films under fair use. For example, let’s say a film archive has digitized a copyrighted film with the permission of the rights holder, but does not have permission to make the film available online for free. The

archive would like to make a short video about the process of film digitization and wants to use short clips from the copyrighted film in it as an example, and upload it to their website. I think that the archive could legally do this under fair use.

In this case, the archive would be using clips from the copyrighted work in order to educate the public about the services they offer, and also use the opportunity to speak about the importance of film preservation. In section 107 of the Copyright Act, teaching is listed as a potential fair use. In this case, the archive would be making an educational film geared toward teaching the public about the process of film digitization. Here, the archive would be transforming the purpose of the original work. While the purpose of the original film could be for commercial entertainment, the archive would be using it for an educational and informative purpose.

Another factor to consider is the amount and substantiality of the work used. For purposes of this hypothetical video, the archive is only using a few very brief clips from the original film. This factor would favor towards a fair use more so than if they had used longer segments or all of the film to illustrate their point. This use would also not likely effect the market for the original film, as an audience interested in viewing it would probably rather watch the film in its entirety, than a few brief clips of it interspersed with commentary focused on the process of digitizing the film rather than the content of the film itself. Thus, I think this would be an acceptable fair use for a film archive as they are transforming the purpose of the copyrighted material, only using a small portion of it, and not affecting the market or value of the educational film.

Sources for Part 1:

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