Mar. 25, 2007

Written by Amy Benfer

Jonathan Lethem's seventh novel, "You Don't Love Me Yet," is a parable of sorts about the ways in which art is created and commodified by a process of borrowing, stealing and transformation. Set in Los Angeles, the novel concerns four indie rock musicians closer to their 30th birthdays than they are to success. The fetching bass player, Lucinda, strikes up a friendship with an anonymous caller to her day job, a complaint line funded by an art gallery. The man, appropriately dubbed the Complainer, happens to have a genius for words. Lucinda passes the Complainer's musings on to Bedwin, the band's lyricist, who transforms them into songs that finally get the band some attention. Things get tricky when the Complainer demands a different sort of compensation for his work: Rather than cash payment, he wants to join the band.

Last week, Lethem, author of the best-selling "Motherless Brooklyn" and "The Fortress of Solitude," proposed an equally inventive, though much more generous, approach to releasing the film rights to his novel. On his Web site, he offered an option on the film rights free to the filmmaker who presents him with the best proposal by May 15. In return, the filmmaker will agree to pay Lethem 2 percent of the film's budget when the film receives a distribution deal, and allow the rights to the novel to return to the public domain -- for the free use of anyone, including other filmmakers -- within five years of the film's release.

Lethem also wrote an essay for the February issue of Harper's called "The Ecstasy of Influence," in which he argues for a new approach to copyright law, based on the recognition that "appropriation, mimicry, quotation, allusion and sublimated collaboration consist of a kind of sine qua non of the creative act." It's based on the recognition that all works of art are, in a sense, a collaboration between artists and the culture at large. I spoke to Lethem about the copyright theme in his new novel and essay at his home in Brooklyn, N.Y.

"You Don't Love Me Yet" is about low-rent indie musicians with day jobs. Musicians like that often have little or no label support behind them and find themselves on a perpetual tour wagon,



earning most of their cash through selling T-shirts -- that is, selling the byproducts of their lovely songs. When I jump on my pro-copyright horse, I have to say these musicians may be wrecking their personal relationships by touring all the time, and then when they enter their elderly years, which for an indie band may be their 30's...

Yes, yes, they have no intellectual property to help them out in the old age home. The first thing I want to say is that it's entirely a fiction of what I'll call, for the sake of this argument, the opposition -- corporate, copyright absolutists -- that to question the present privatization craze in any way is to vote for some anarchic abolition of copyright.

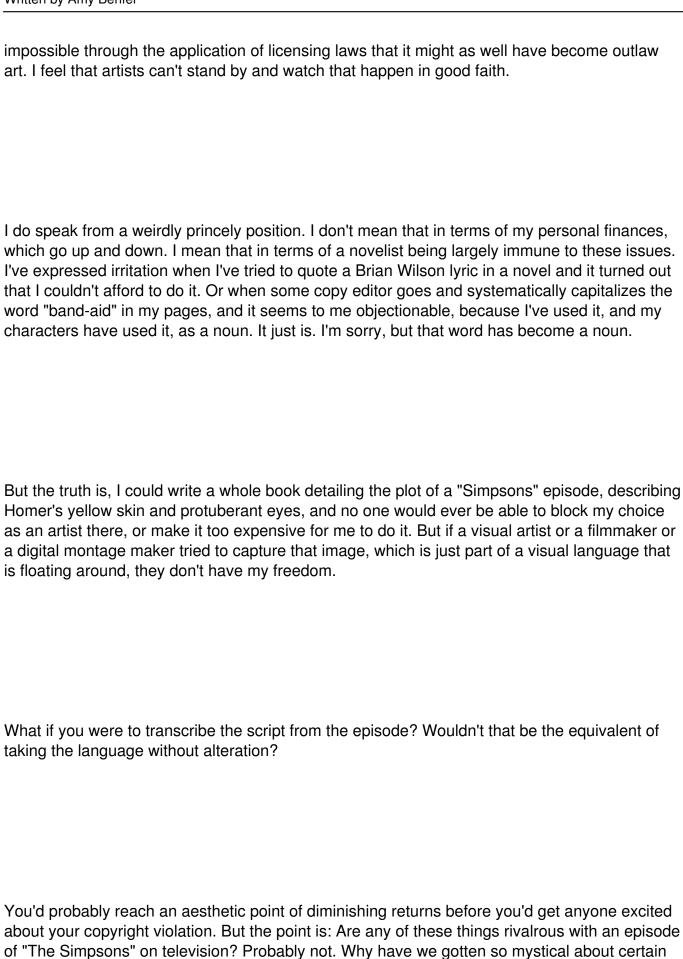
I make my living by licensing my copyright. Everything I've tried to say, in the Harper's essay and elsewhere, is that there is an enormous middle ground. It becomes one of those issues like, "If you don't favor wiretapping in the U.S., you must be for the terrorists." What I'm seeking to explore is that incredibly fertile middle ground where people control some rights and gain meaningful benefits from those controls, and yet contribute to a healthy public domain and systematically relinquish, or have relinquished for them, meaningless controls on culture that impoverish the public domain.

Having said that, there's no simple description. There's an enormously intricate series of judgments, given technological variations and the differences between different mediums. There's no simple standard to apply. It's a matter of understanding the needs of a healthy public domain and a healthy creative incentive in every field in deep and intricate specifics.









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corporate holdings, which is what we are really talking about. Or certain business models? People speak of these rights as if they have this tangible moral power, comparable to the Ten Commandments. But they are very local and convenient corporate notions. All sorts of things can't be moved from one location to another freely by people wanting to talk about them, or depict them, or make fun of them, or smash them together with other things.

This is high and low. Talk to scholars of James Joyce, who have seen themselves tied in horrific knots by excessively zealous literary executors who won't let them quote from the works. There's an epidemic of this kind of control. Everyone can get up in arms, saying Samuel Beckett shouldn't have to see "Waiting for Godot" staged with Samurai costumes in his lifetime. It feels quite appropriate that he squashed things like that because he was such a severe and intense fellow. But for his heirs to make it seem as though there's an eternal injunction against recontexualizing the things he offered into our culture, well, all we have to do is apply the same standard to Shakespeare to see how impoverishing that would be.

You received a \$6,000 advance for three years of work on your first novel, which is, sadly, pretty typical. Clearly, if you were still making that kind of money, it would be pretty tough to continue making art at all, much less conduct this kind of social experiment.

Sure, but it wasn't strengthening of copyright control that allowed me to make more money after that; it was because I found some readers. Even if my rights were Kryptonite and lasted 1,000 years, if no one read my books, they wouldn't be worth a penny. The economy of human attention is a very precious one, much scarcer than any other. I'm lucky to be in the position of having anyone notice that I've given something away in the first place.

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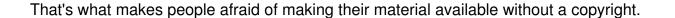
In your essay, you used the blues as a model of "open source" material. You mentioned Led Zeppelin copping from blues musicians. Or you could take Brian Eno and David Byrne, models of good behavior as they are, lifting from other musical cultures. Or Picasso lifting from "African primitives." When you have a person or culture in power lifting from a person or culture with less power, especially when they make a crazy profit on the exchange, that's when people get extremely uncomfortable.

I agree. That's why I brought up those examples. I wanted to grant that there are an incredible array of relationships that artists can have to sources. Some of them make us uncomfortable; some of them even cross over into the deplorable and/or pathetic, like "Opal Mehta." But I think there are innate standards that people are applying by instinct, whether they can articulate it or not.

One is the value-added question. David Byrne may have seemed like a bit of a tourist, but he applied a transformative genius to the works he glommed onto, as did Picasso. Carlos Mencia doesn't seem to have added value to the jokes that other comics claim he has lifted from him. He just lifted them. So that's one standard.

Another is deception. People don't like to feel fooled. There's some degree, if not of citation, then suggestion, that there are sources. The third is the Led Zeppelin issue: Oh wait, you just cashed in enormously on this. It was un-copyrighted blues and you just slapped a copyright on it? That's the Disney/Led Zeppelin action. Those creators could both pass the value-added test quite nicely. But it still seems a little disproportionate, the amount of printing money that went on in relationship to sources that were relatively non-commodified before that time.





I think right now there's a very lively culture of public shaming that would take care of those types. But sure, there are two sentiments that are not always completely in agreement. That's one reason I didn't call this an open-source project. Open-source projects require that any subsidiary use perpetuate the non-commodifiability. And I decided that was not a control that I wanted to impose. Part of what I wanted to celebrate was the non-controlled aspect of my gift transaction.

For example, I've put lyrics from my new novel on my Web site. And I'm not saying, "Don't have a hit song and make money with these lyrics." I don't know if anyone could, but if someone did, I would just be happy for them. For me, just writing them and being engaged is more than enough. In that area, I'm not seeking reward and I'm not seeking to prohibit someone else from seeking reward. So that's a little different from the open-source description.

That goes to the Samuel Beckett sentiment, or, perhaps better, the Margaret Mitchell estate [who sued for copyright infringement over "The Wind Done Gone"]. If you make stuff, it is not yours to command its destiny in the world. God help you, you should be grateful if it has one. It's fantastic if anyone cares. Every artist should be constantly reminding themselves how lucky they are if people are even bothering in the first place. If people do something that is not as interesting as I'd hoped with my work, or if they go and make a lot of dough, that's part of accepting that I've made a gesture whose conclusion is not mine to command.

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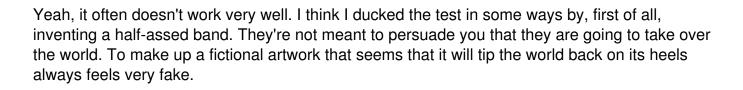
But to be totally obvious, lyrics and even film projects are not novels. One thing I would always retain is the rights to my novels. With my new novel, I'm inviting some filmmaker to take a lover's leap with me, saying that five years after the release of a film, we make it a stage play or a comic book or a musical or make a sequel. I wouldn't probably choose to do that with every one of my novels. With some of them, some degree of control is still appealing to me. With this one I felt I would really enjoy giving that away. And it's my choice. That's the key. This proceeds from my choice. But I don't think 50 or 100 years after my death, someone should still have say over what someone makes of this stuff. It certainly doesn't follow. As Lawrence Lessig likes to point out, you can't provide incentive to a dead creator to make more art by offering him a copyright.

I'm curious what happens when you reverse that value-added test. Let's use the woman who claimed to have invented Muggles before J.K. Rowling, or the example you raised about the guy who wrote a bad version of "Lolita." If making good art legitimizes borrowing, is the corollary true? If you make bad art, do you fail that value-added test and suddenly have your artistic failure become illegal too?

Bad art is never unethical. It's desperately important to clarify that because every artist makes a lot of bad art before they make any good art, and often, at intervals, will make more bad art over the course of making good. It has to be as freely encouraged as the making of the good.

It seems very gutsy to invent a band in fiction.



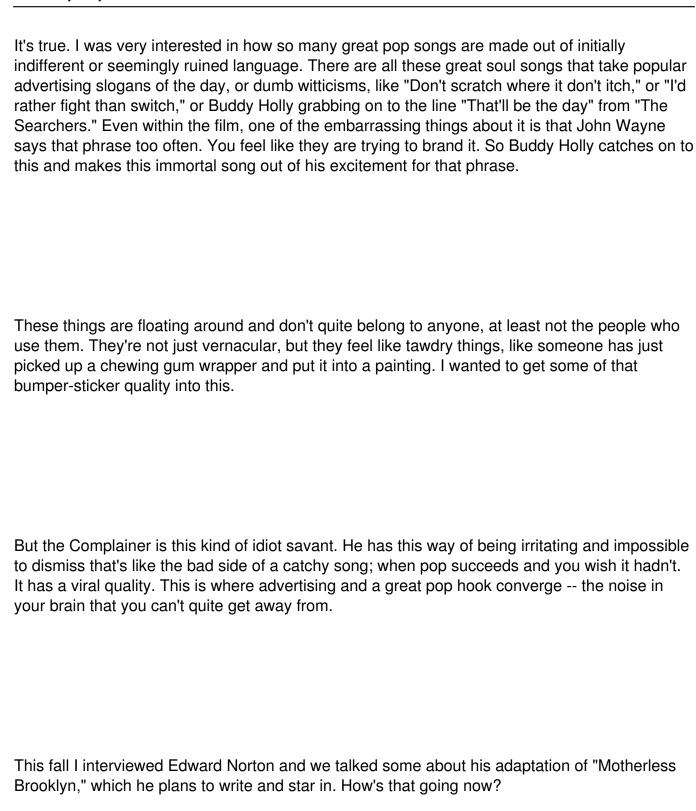


If someone were to fictionalize the kinds of things that do succeed, they wouldn't sound right either. Instead of doing that, I invented something like the avant-garde film in "Fortress of Solitude"; I made up art that no one cares about. That's much easier to persuade people of, because there is so much of that.

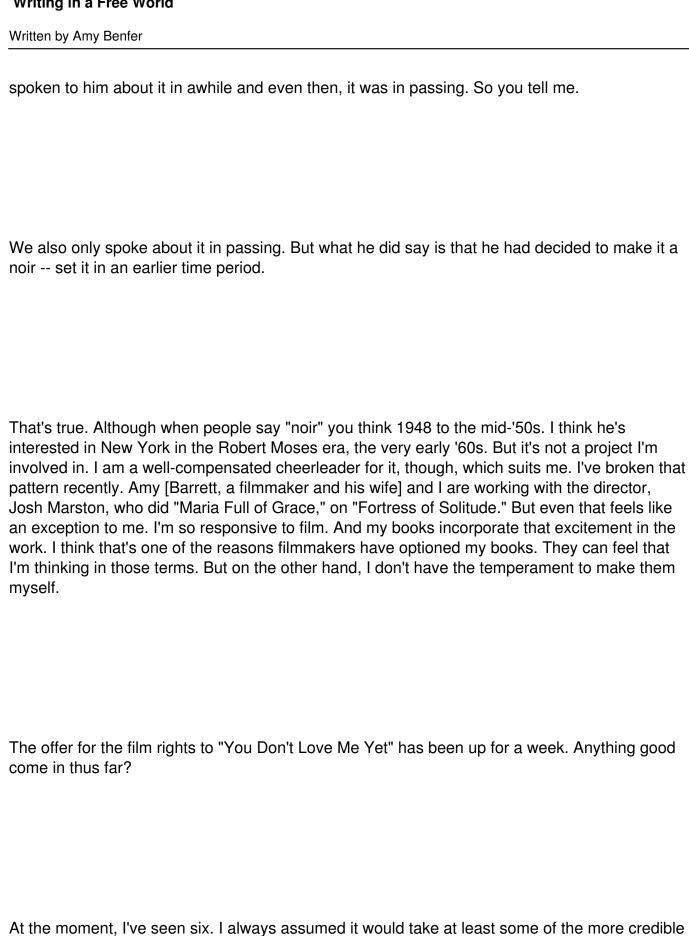
The other thing I did that wasn't a conscious strategy -- though after I did it, I realized it was an unconscious strategy -- is I didn't actually commit to the full lyrics of the song. I always hate when there are fictional lyrics to the entirety of a song. It makes me cringe. I don't think a lot of real lyrics are very persuasive on the page, even to songs you would like. So I always just gave a fragment or a line -- even in the case of "Monster Eyes," I just give a chorus. Even so, it still frees you to believe that the song is something you'd like if you heard the whole thing.

A lot of the Complainer's lines could be ad slogans. It draws an interesting parallel between pop songs and advertising jingles.

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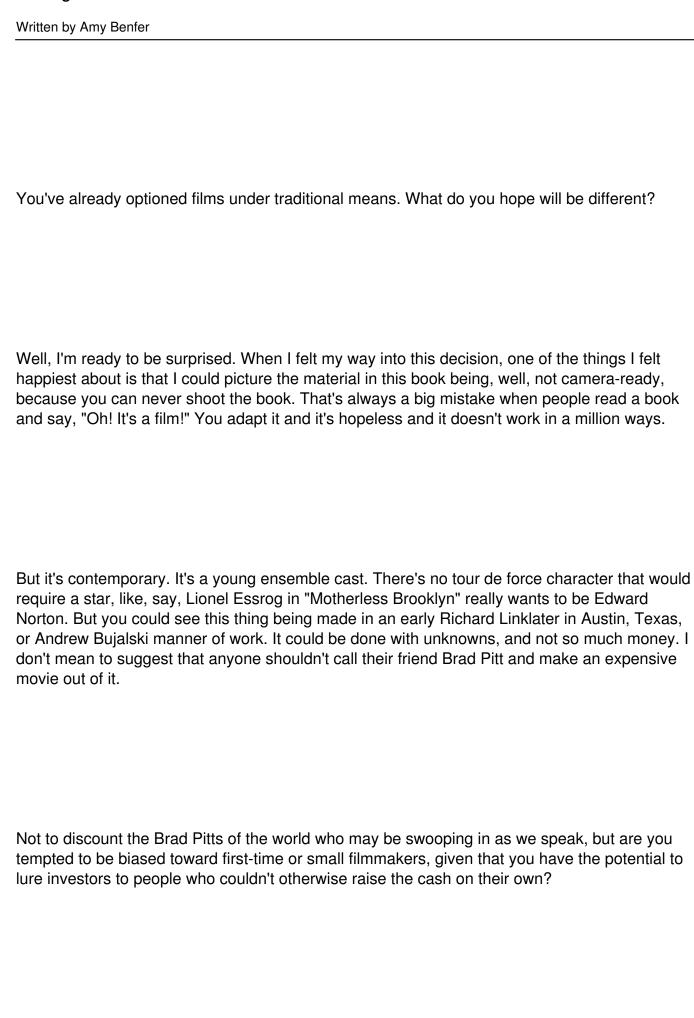


Well, you've probably got a much better idea of where that project stands than I do. I haven't

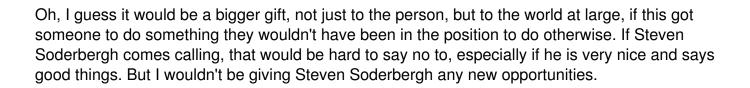


or thoughtful offers time to figure out what the hell I was on about and what, if anything, they could envision themselves doing -- not to cast any shade on the ones that have already come

in, which I haven't had a chance to look at yet.





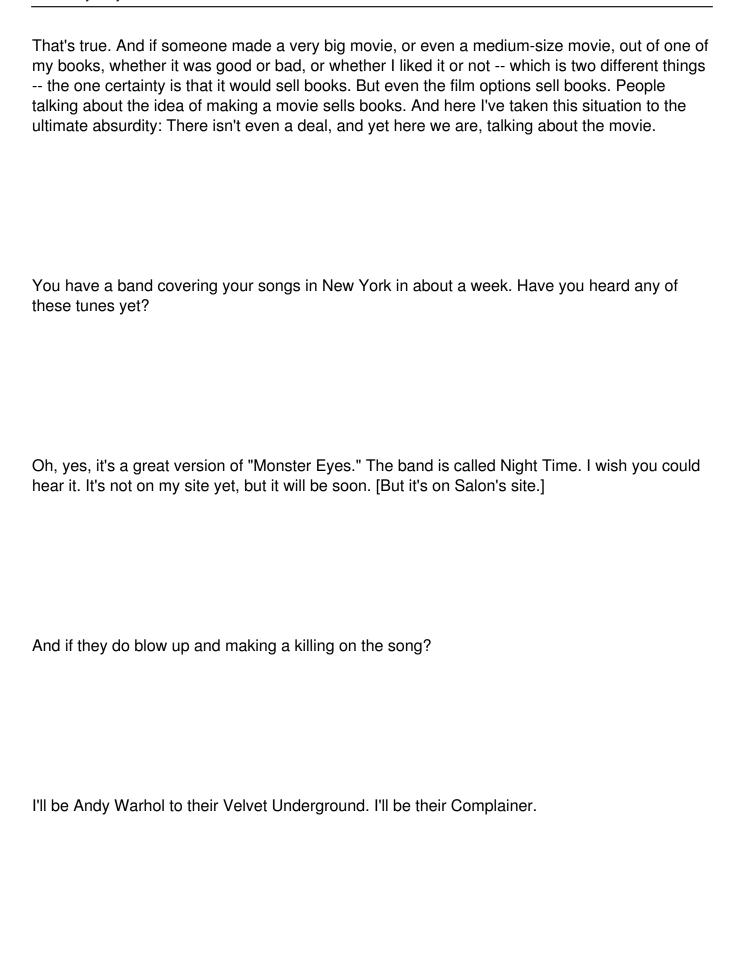


I guess I'm in a similar position to those giving out grants or awards in the art world. It's very pretentious to think of this as an award. But in the same way, if two equally interesting and charming proposals are made to me, and one is someone who could probably make their next movie easily anyway and the other is someone who might not otherwise get to make a film, you're right. I should probably tip toward the latter. But this is all getting so ahead of myself.

Well, I bet whoever you choose will find it easier to raise money for the film than they would for a story by an unknown writer.

I have this weird little thing to lend out in a way. Even more peculiar is this episode has already gotten some attention. One of the weird things about being a novelist who has any relationship at all to the film industry is that what everyone says -- consolingly almost, because they're all envisioning hugely successful movies that are disastrous adaptations of your book, and already feeling sorry for you in advance for these nonexistent movies --- they all say, "Well, at least it will sell some books."

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