

Show Me the Money? The 'Other' IP Laws, Commercialisation of Entertainment and the Entrenchment of Power

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Introduction

[7.1] One of the truly remarkable occurrences in entertainment over the past four decades has been *Star Wars*. It has broken countless box office records and its success with merchandise has revolutionised not just the marketing and promotion of movies, but arguably created the phenomenon of the modern entertainment franchise. There is some irony in the ways in which George Lucas and Lucasfilm used intellectual property law to first create and then maintain and protect the *Star Wars* franchise. In making the first movie, *Star Wars: A New Hope* (as it was later called), George Lucas openly borrowed ideas from a wide range of different creative sources: 1930s sci-fi serials like *Flash Gordon*, 1950s car culture, the 'hallucinogenic spirituality of Carlos Castaneda', a Vietnam allegory, as well as the work of Joseph Campbell and Akira Kurosawa.¹ The final movie 'compresses fifty years of pop culture into two hours of space adventure'.² Indeed, Lucas has said, 'Look around you. Ideas are everywhere.'³ As explained in the previous chapter, Lucas was able to do this without infringing copyright because copyright does not protect ideas or general themes. Moreover, this is exactly how culture is – and should be – created. As such, Lucasfilm cannot use copyright law to stop others from telling stories about space or war⁴ but it has been able to use other categories of intellectual property – especially trade mark law – to stop others from profiting from *Star Wars*. Lucasfilm has sued over everything from President Reagan's

- 1 Joshua Rothman, 'The Crazy History of "Star Wars"' *New Yorker* 17 December 2014. <<http://www.newyorker.com/books/page-turner/crazy-history-star-wars>>. See also Chris Taylor, *How Star Wars Conquered the Universe: The Past, Present, and Future of a Multibillion Dollar Franchise* (Basic Books, 2014).
- 2 Joshua Rothman, 'The Crazy History of "Star Wars"' *New Yorker* 17 December 2014 <<http://www.newyorker.com/books/page-turner/crazy-history-star-wars>>.
- 3 Joshua Rothman, 'The Crazy History of "Star Wars"' *New Yorker* 17 December 2014 <<http://www.newyorker.com/books/page-turner/crazy-history-star-wars>>.
- 4 Compare *Twentieth Century Fox Film Corp v MCA Inc* 715 F 2d 1327 (9th Cir 1983).

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