

Copywrong?

**By Reg P. Wydeven
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Last month, San Diego hosted its annual Comic Convention. For nerds like me, Comic Con is a big deal. The stars and directors of upcoming super hero and sci-fi movies attend to promote their films. This year, a trailer revealing portions of never-before-seen deleted scenes from the original Star Wars trilogy was shown to promote the release of the saga on Blu-Ray.

One of the greatest things about Comic Con is that it makes me seem like a pretty normal dork. Fans in attendance dress up like their favorite comic book or sci-fi heroes. Many dress up in the white armor of the Stormtroopers from Star Wars. Some fans make their own costumes, some shell out big bucks for licensed costumes, while others buy knock-offs. Lucasfilm, George Lucas' company that owns the intellectual property rights to the Star Wars saga, fiercely protects these rights because of the billions of dollars Star Wars merchandise generates.

Lucasfilm suffered a huge blow recently in the birthplace of our system of law. England's Supreme Court decided last week that the unlicensed Stormtrooper helmets and armor manufactured by London's Andrew Ainsworth did not violate British copyright law.

Eight years ago, Ainsworth began selling copies of the plastic composite helmets and armor for up to £1,800, or \$3,000. In 2004, Lucasfilm promptly sued Ainsworth in the U.S. for \$20 million (£12 million) for violating the company's intellectual property rights over the Stormtrooper design. While Lucasfilm won, the judgment couldn't be enforced because Ainsworth, having no assets in the U.S., fell outside of the jurisdiction of American courts.

Lucasfilm then sued in England's Court of Appeal where Ainsworth argued that the costumes were functional helmets and armor and not works of art, and therefore, not subject to copyright law. The Court agreed, ruling in Ainsworth's favor. Lucasfilm appealed and the High Court upheld the decision. So Lucasfilm appealed again to England's Supreme Court, the highest court in Great Britain.

The Supreme Court agreed with Ainsworth's argument that, "Art is like a Rodin sculpture, film production is an industry and that's what these products are, they were always industrial designs." Not being sculptures, the costumes' copyright protection expired 15 years from the date they were first marketed, or May of 1977 when Star Wars was released. The Court did agree, however, that Lucasfilm's rights were violated under U.S. law and ordered that he not sell them in America.

Ainsworth, who spent over £700,000 (\$1,150,000) defending the lawsuits, portrays himself as the little guy taking on big business, saying, "I am proud to report that in the English legal system David can prevail against Goliath if his cause is right." Then, adding insult to injury, Ainsworth jabbed, "If there is a force, then it has been with me these past five years."

Obviously upset with the decision, a spokesperson from Lucasfilm responded by saying the Court's decision propagated "an anomaly of British copyright law under which the creative and highly artistic works made for use in films... may not be entitled to copyright protection in the UK." The spokesperson went on to say that copyright protection would have been given in "virtually every other country in the world" and vowed that, "Lucasfilm remains committed to aggressively protecting its intellectual property rights relating to Star Wars in the UK and around the globe."

While I'm clearly sad for George Lucas, I must admit I'm pretty excited about the decision. Here's hoping the ruling opens the door for a British engineer to manufacture a "functional," not "artistic," lightsaber.

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