

Fair Use Project and Cyberlaw Clinic at Stanford Law School Represent Scholar in Lawsuit Against the Estate of James Joyce

Landmark Case Tackles Copyright Use, Pleading States Joyce Estate Impedes Academic Progress

STANFORD, Calif., June 12, 2006—A landmark case seeking to determine the rights of academics to use copyrighted materials in their writings was filed today in the federal court of the Northern District of California. Carol Shloss, a scholar of James Joyce, is asking the Court to find that she has the right to use quotations from published and unpublished material relating to James Joyce on a scholarly website about him. The Joyce estate has threatened to sue her for this work claiming it is covered by copyright. The suit comes on the eve of Bloomsday, the annual Joyce celebration on June 16 that memorializes the day that Leopold Bloom, the main character in Joyce's *Ulysses*, made his now-famous walk through Dublin.

Shloss hopes this case will clarify that scholars can explore the personal histories of their subjects using their biographical material without threat of suit. “By stepping forward, I hope to bring a case that will widen the world of free cultural exchange, granting greater flexibility to scholars like myself who have had to struggle against tremendous pressures and limitations from estates that control materials long after the writers who generated them have died,” said Shloss. “In this case we have the opportunity to clarify, and hopefully alleviate, some of the restrictions that damage the free exchange of ideas.”

In 2003, Shloss, a renowned Joycean scholar who has held fellowships from the National Endowment for the Humanities, the Rockefeller Foundation, and the Mellon Foundation, published *Lucia Joyce: To Dance in the Wake*. The book delves into the relationship between Lucia Joyce and her father, James Joyce, and alleges its impact on his acclaimed work of literature, *Finnegans Wake*. According to the lawsuit, prior to publication, Shloss was forced to delete substantial evidentiary portions of the manuscript so as to avoid the threat of copyright litigation from the Estate.

In 2005, Shloss created a supplemental website for her book containing the additional supporting material that was cut from her book. This website is restricted to United States IP addresses. Password-protected and not yet available to the public, the lawsuit asserts that the website uses the work in a scholarly transformative manner—allowed under U.S. copyright law. The lawsuit states that in a series of letters to Shloss, the Joyce Estate again threatened legal action if this website is made available to the public.

According to the lawsuit, the Estate and its agent, Stephen Joyce, have a history of threatening and pursuing litigation against persons using Joyce's works. As examples, the lawsuit states that the Estate sued sponsors of a global Internet webcast reading of *Ulysses* that took place on Bloomsday 1998; that event was supported by the Prime Minister, the President, and other politicians in the Republic of Ireland. In addition, the lawsuit contends that although the Estate does not hold copyright over medical records of Lucia Joyce and many letters relating to her, it has consistently leveraged the threat of denying permission to use James Joyce's works if material relating to Lucia Joyce—of which the Estate does not approve—is published.

Lead attorney Lawrence Lessig, commented, “We want to establish that scholars have the clear right to make even extensive use of copyrighted material for critical scholarly purposes. Shloss’s book and website are not copies of, nor substitutes for, Joyce’s works. Accordingly, her work is not the kind that copyright law seeks to prohibit. Instead it is the kind of scholarly, critical work that is protected, and that should always be protected, by fair use. We seek a clear statement from the court that such academic use of copyrighted materials is protected under fair use.”

“For too long Joyce scholars have worked under the fear of litigation if they angered the Joyce Estate or Stephen Joyce,” said David Olson, supervising attorney on the case. “It’s time that academics’ fair use of quotations from James Joyce in their scholarship become a practical right, not just a theoretical right that can only be claimed by those able to spend hundreds of thousands of dollars defending a lawsuit.”

The Center for Internet and Society is a public interest technology law and policy program at Stanford Law School and a part of the Law, Science and Technology Program at the law school. The Cyberlaw Clinic provides legal representation to private litigants and other clients in matters involving the public interest and technological development. The Center is representing the plaintiff as part of its recently inaugurated Fair Use Project. The Cyberlaw Clinic is one of Stanford Law School’s nine educational law clinics, which function in a manner akin to law firms and provide dynamic and diverse educational opportunities for law students. Certified law students John Polito and William Ridgway worked extensively on this case. The position taken in the litigation represents the views of the litigant, and does not necessarily reflect the position of Stanford Law School or Stanford University. The Center’s home page is located at <http://cyberlaw.stanford.edu/>.

Lawrence Lessig, is the Founder and Director of the Center for Internet and Society and the C. Wendell and Edith M. Carlsmith Professor of Law at Stanford Law School. Professor Lessig represented website operator Eric Eldred in the U.S. Supreme Court case *Eldred v. Ashcroft*, a challenge to the 1998 Sonny Bono Copyright Term Extension Act. He was named one of Scientific American's Top 50 Visionaries, for arguing "against interpretations of copyright that could stifle innovation and discourse online." David Olson is a resident fellow with the Center for Internet and Society who has litigated numerous high-profile intellectual property cases in federal courts across the country. At the Center, Olson combines academic scholarship with intellectual property litigation. Robert Spoo, himself a Joyce scholar and copyright lawyer, is co-counsel for Shloss on this case. Spoo is Adjunct Professor of English and Law at the University of Tulsa and an attorney with the law firm of Doerner, Saunders, Daniel & Anderson, L.L.P., also in Tulsa. Formerly the Editor of the *James Joyce Quarterly* he now practices law full time and has written extensively on Joyce and copyright law.

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