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THE DISNEYFICATION OF DR SEUSS: FAITHFUL TO PROFIT, ONE HUNDRED PERCENT?

Abstract

This essay takes a critical look at the Disneyfication of Dr Seuss (Theodor Seuss Geisel, 1904–1991), examining how a man whose books encourage critical thinking became a brand name, and is increasingly becoming an affirmation of consumer culture. Since his death, Dr Seuss's name and characters have been used to promote cereal, credit cards, and action figures (among other things); this strategy has led many to cite Suess's indifference to money and his reluctance to exploit his characters for commercial gain. And, as this article points out, posthumously licensed products are more likely to encourage consumption for its own sake, whereas ones licensed during his lifetime tend to encourage creative or imaginative play. However, the Disneyfication of Dr Seuss is not strictly a posthumous phenomenon. After losing a 1968 case against companies that marketed 'Dr Seuss' products based on his 1932 *Liberty Magazine* cartoons, Dr Seuss accepted his lawyers' (and the court's) conclusion that trademark is more powerful than copyright, and approved the production of a vast array of Seussiana. Drawing on legal research, analysis of the products themselves, conversations with Dr Seuss Enterprises and with his biographers, the article concludes that Seuss's Disneyfication is a symptom of a legal system designed to benefit capitalism more than moral or artistic values.

Keywords

Seuss; copyright; trademark; marketing; law; children

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In the now-classic holiday picturebook, *How the Grinch Stole Christmas!* (Seuss, 1957b), the Grinch is shocked when – despite his having stolen everything from the Christmas trees to the last can of *Who*-hash – 'Every *Who* down in *Who*-ville, the tall and the small, / Was singing! Without any presents at all!' Against all his efforts to prevent it, Christmas arrives 'just the same!' Like Scrooge on Christmas morning, the Grinch on Christmas morning is a changed man – or, at least, a changed Grinch. In his memorable epiphany:

> 'Maybe Christmas', he thought, '*doesn't* come from a store'.
> 'Maybe Christmas . . . perhaps . . . means a little bit more!'

Like Charles Schulz's *A Charlie Brown Christmas* (1965), which made its television debut the year before Chuck Jones's animated *Grinch* (for which Seuss himself wrote the screenplay), the book *How the Grinch Stole Christmas!* criticizes the commercialization of the holiday. Now, as Schulz's TV special did and as popular holiday records – such as Stan Freeberg's 'Green Chritma' (1958) – have done, Seuss's *Grinch* profited from satirizing those who exploit Christmas for profit. CBS-TV paid MGM $315,000 for the rights to air the animated *Grinch* before Christmas in 1966 and 1967; the TV-special has gone on to become a holiday tradition (Morgan and Morgan, 1995: 191). And, noting this irony, one might be inclined to point to the book's complicity in that which it criticizes: after all, doesn't Seuss's *Grinch* sell well every holiday season precisely because it *is* a Christmas book – a Christmas book promoted by its own TV-special?

Such a charge suggests that Seuss could launch a critique from outside the economic system of which he was a part and that he would want to oppose a system in which he had succeeded. By the time of his death, 'Dr Seuss' (Theodor Seuss Geisel, 1904–1991) was a multi-million dollar industry; in 1998, Herb Cheyette of Dr Seuss Enterprises estimated that over 400 million Dr Seuss books had been sold (*An Awfully Big Adventure*, 1998). As a former advertising man, Seuss may well have viewed the financial success of the *Grinch* as a moral success: the more people who see Jones' *Grinch* or read Seuss's *Grinch*, the more who receive Seuss's message. As his World War II cartoons and political books demonstrate, when writing as a propagandist, Seuss wished to persuade as many people as he could. He might have enjoyed the irony of having written a successful commercial against commercialism.[1]

But would Seuss approve of the past decade's hyper-commercialization of his work? During his life, Dr Seuss did license 'spin-off' products other than animated TV specials. There were 'World of Dr Seuss' lunchboxes, Cat in the Hat plush toys and the 'Sam-I-Am' See-n-Say Storymaker to name but a few. For the most part, the products permitted by Seuss tend to encourage creative play. The Seuss Multi-Beasts introduced by Revell in 1959 and 1960 had interchangeable parts: you could make Tingo, 'the noodle topped stroodle'; you could combine Tingo's parts with those of Gowdy, 'the dowdy grackle', or Busby, 'the tasselated Afghan

spaniel yak'. As their boxes proclaimed, 'SNAPS TOGETHER – PULLS APART in THOUSANDS of ways'; the first four Multi-Beasts could be combined in 14,000 ways by Revell's estimate (*Publishers' Weekly*, 1959: 53). In addition, a child could play-act with a Cat in the Hat plush toy or create new stories from the See-n-Say Storymaker. Seuss did not allow characters from his books to be used in advertising for unrelated products and often turned down requests to license his work, once remarking, 'I'd rather go into the *Guinness Book of World Records* as the writer who refused the most money per word' (Morgan and Morgan, 1995: xviii). However, since his death, Seuss's name has been attached to a wider range of items, including a Seuss theme park in Orlando, Florida, and commercials featuring Seuss's characters. Contradicting the notion that Christmas '*doesn't* come from a store', the Grinch himself has sold Kellogg's Frosted Mini-Wheats, Nabisco's Ritz crackers, VISA credit cards and York Peppermint Patties. It is time we look at the Disneyfication of Dr Seuss, examining how a man whose books encourage critical thinking became a brand name.

Disneyfication

In *Inside the Mouse: Work and Play at Disney World*, Karen Klugman (1995) defines 'Disneyfication' as 'the application of simplified aesthetic, intellectual or moral standards to a thing that has the potential for more complex and thought-provoking expression' (1995: 103). The film of the *Grinch* (2000) is the cinematic embodiment of this definition and the most vivid example of the Disneyfication of Dr Seuss. To be fair to the filmmakers, they do get the central message of Seuss's book: indeed, the film has Cindy-Lou Who and the Grinch each undergo spiritual crises about the meaning of Christmas so that each may separately conclude that the holiday is more about community than capitalism. The Grinch (played by Jim Carrey) retains Seuss's lines about Christmas not coming from a store but meaning a little bit more. To emphasize this moral, prior to the Grinch's pronouncement, the film provides a scene in Who-ville's town square on Christmas morning. Cindy-Lou Who's father Lou-Lou Who (Bill Irwin) tells us: 'I'm glad he took our presents. I'm glad'. In the tone of a villainous sit-com boss, the mayor replies: 'He's glad. You're glad. You're glad everything is gone. You're glad that the Grinch virtually wrecked – no, no, no, not wrecked – *pulverized* Christmas! Is that what I'm hearing from you, Lou?' Cindy-Lou Who gazes adoringly at her father, as he responds: 'You can't hurt Christmas, Mr Mayor, because it isn't about the gifts or the contests or the fancy lights. That's what Cindy's been trying to tell everyone. And me. She's been trying to tell me'. Finally, to make absolutely sure we get the point:

> Mr. Mayor: What is wrong with you? This is a child!
> Lou-Lou Who: She's my child, and she happens to be right, by the way. I

> don't need anything more for Christmas than this right here: my family. Merry Christmas everybody!

The scene is overdone, the dialogue is cloying, but it does spell out how Christmas means 'a little bit more'. Although it simplifies aesthetically and intellectually, the screenplay does emphasize Seuss's moral, even if – as *The New York Times*' A.O. Scott points out – the moral 'is learned not so much by the Grinch but by the Whos themselves, who must overcome their corrupting materialism before they get their mountains of presents, a perfect Hollywood moral' (Scott, 2000: 105).

Regrettably, the excesses of the production undercut even the Hollywood-ized moral message. The film imagines not only Who-ville but even the Grinch's cave as elaborate, gadget-filled amusement parks. While Seuss's books display a fondness for Rube-Goldberg-esque inventions, the special-effects-encumbered *Grinch* film seems designed to encourage viewers to buy these inventions, to purchase the action figures, to come to the theme park. Who-ville's remarkably clean garbage chute, which empties into the Grinch's mountaintop cave, is like a waterslide that works both ways: The Grinch and Cindy-Lou Who delight in riding it down and up the mountain. As the camera follows them around turns, catching the mirthful expressions on their faces, the Grinch whoops and Cindy-Lou screams in delight, suggesting a commercial for a Wet N" Wild theme park or Orlando's 'Seuss Landing' theme park. Even the Grinch's sled behaves like an amusement-park ride – appropriate, given that Seuss Landing offers a sled-ride with the Grinch down Mt Crumpit (Palmer, 2000: 8). On the way down the mountain the first time, it's a sled-spaceship hybrid, complete with rocket boosters; on the way down the second time, it's a sled-motorboat, with Cindy-Lou driving and the Grinch skiing behind it, hanging on to a rope in a manner that suggests water-skiing. The film feels like a commercial because it dwells on spectacle at the expense of character and narrative. As director Ron Howard has said: 'What we tried to do with *The Grinch* is use the latest state-of-the-art technology to be able to really create an atmosphere, scope, and scale that's really pretty seamless' (*We All Dream of Oz*, 2000). His film may be seamless, but it is more about its 'state-of-the-art' production values than about the story itself.

The narrative of the film, unlike that of the book or of Jones's animated version, stresses the values of self-improvement, emphasizing a quintessentially American narrative: if you work hard, anything is possible! Young, blonde and spunky, Cindy-Lou Who is equal parts social worker, therapist and investigative reporter. Perceiving the Grinch's essential virtue, she interviews the Grinch's guardians and childhood acquaintances, discovering the truth about his sad childhood: after being mocked by his peers and suffering an unrequited love for Martha-Mae Who, the 8-year-old Grinch exiled himself to the mountaintop cave. Before Cindy-Lou intervenes, the Grinch is given to announcing, 'Now to take care of those pesky memories' and then smacking himself in the head with

a mallet. But that adorable Cindy's message of love and community involvement helps the Grinch reform. In Seuss's book, he changes from Grumpy Grinch to Good Citizen, too, but there's no emphasis on self-improvement: he hears the Whos singing, has an epiphany and he's a new Grinch. In contrast, the film emphasizes the recovery process: Cindy-Lou suggests that his dislike of Christmas may be 'just a misunderstanding' and counsels the Grinch to 'reunite with the Whos and be a part of Christmas'. It is a misunderstanding, and his joining with the Whos is the final step in his 12-step programme. As Interbrand consultancy president Martyn Straw has observed, 'American brands are about anything being possible – the core value of all of them is optimism. America is not a country, it's an idea. [. . .] [T]he Disney brand is almost exclusively dependent upon that' (quoted in Weber, 2002: 78–9). The Seuss brand is becoming dependent upon that too.

Even an original Seuss book like *Oh, the Places You'll Go!* is not as optimistic as its status as perennial graduation gift would suggest. Its central character lands in 'the Lurch', 'a Slump' and 'the Waiting Place', all of which make the possibility of failure very real. However, recent ersatz Seuss books bring the Seuss brand much closer to the Disney brand, promoting the idea that anything is possible as long as one keeps a positive outlook. Tish Rabe's *Oh, the Things You Can Do That Are Good for You!* (2001) and Bonnie Worth's *Oh Say Can You Seed?* (2001) – both marketed as volumes in 'The Cat in the Hat's Learning Library' – are saccharine, moralistic guides to self-improvement. Seuss did write more overtly 'educational' books, like *I Can Read with My Eyes Shut!* (1976) and *The Cat's Quizzer* (1978), but in these books the Cat in the Hat retains some of his subversive appeal. The Cat may not be the anarchist that he is in *The Cat in the Hat* (1957a) or *The Cat in the Hat Comes Back* (1958a), but his narration of both *I Can Read with My Eyes Shut!* and *The Cat's Quizzer* happily mocks the 'educational' genre of which both books partake. In the former, the Cat advises a young cat about reading, which (if done with eyes open) can teach you about 'fishbones . . . and wishbones. You'll learn about trombones, too. You'll learn about Jack the Pillow Snake and all about Foo-Foo the Snoo' (Seuss, 1976). The latter includes such absurd questions as 'What would you do if you jumped in the air and didn't come down?' and provides appropriately whimsical answers, like 'If you get stuck in the air, fly to the nearest telephone. Dial "0" and ask for a ladder' (Seuss, 1978: 41, 60).

In contrast, the Cat of *Oh, the Things You Can Do That Are Good for You!* and *Oh Say Can You Seed?* takes himself quite seriously. He is still smiling, but now he works out. The former book's cover shows him clad in running shorts and a tank top, going jogging with Thing One and Thing Two, all carrying water bottles in their hands. He introduces the Tac-Toe-Tapping Tweets, who 'are strong and they're wise / for they know to stay healthy / they need exercise!' (Rabe, 2001: 9). Thing One and Thing Two, formerly pure id, are now all super-ego: they lift weights, stay clean and do their homework. The now well-behaved Cat shows us the Zanz, who sings a 'song / about washing your hands': 'Wash your hands

carefully. / It's up to you. / Use soap and warm water. / It's easy to do. / Rinse them and while / we all sing this refrain, / germs from your hands / will slide right down the drain!' (Rabe, 2001: 14, 16–17). *Oh Say Can You Seed?* trots out the Cat to explain botany to young readers: 'Just what is a seed, / you are wondering, maybe? / Well, you might say a seed / is a tiny plant baby!' (Worth, 2001: 12). The book concludes with verses such as 'But whether they stick / or they blow or they fly, / seeds bring us life, / and now you know why' (Worth, 2001: 38). These books turn the Cat in the Hat into precisely what the original Cat in the Hat rebelled against: preachy, didactic, obviously 'educational' primers. Of course, books like *The Cat in the Hat*, *The Butter Battle Book* and *The Lorax* do have morals, but they deliver these morals by provoking their readers, not by preaching to them.[2]

To be fair to the authors of these books, we should note it is difficult to imitate Dr Seuss – a challenge that may have been compounded by the tangled origins of 'The Cat in the Hat's Learning Library'. As Herb Cheyette of Dr Seuss Enterprises explains, NASA in 1993 asked if its new robotic space probes could be named DRSEUSS, 'an acronym for Data Relay Solar Electric Upper Stage Spacecraft'. An image of the Cat in the Hat would be featured on the probes, and NASA also wanted the Cat to serve as narrator for a series of 'children's beginning science books' that were to be 'based on NASA supplied materials'. After five years of negotiation, contracts had been signed by Dr Seuss Enterprises and Random House, and, just as NASA was about to sign, 'everyone involved in the project on NASA's side was either fired or reassigned, and the project was peremptorily aborted by the agency'. Having invested a great deal of time and money into the project, Dr Seuss Enterprises and Random House decided to go ahead with the idea of 'using the Cat as a narrator to teach simple science' (Cheyette, 2003). Despite the project's difficult beginnings, *Oh Say Can You Seed* won the 2003 Ohio Farm Bureau Children's Literature Award for books with an agricultural theme. The books also feature an endorsement from Barbara Kiefer, Associate Professor of Columbia University's Teacher's College: 'The Cat in the Hat's Learning Library™ shows young readers that books can be entertaining and educational at the same time. This is a wonderful series!' While I do not concur with these assessments, we must note that 'The Cat in the Hat's Learning Library' does have some admirers: in this respect, the series has overcome both its troubled start and its aesthetic deficiencies.

If you know the original Seuss books, the 'new' ones are obviously not Seuss books. As Herb Cheyette says, 'To suggest that anyone would buy one of these books thinking it was by Dr Seuss is absurd; almost as absurd as thinking that comparing their literary quality to that of an inimitable genius provides a demonstration of critical acumen' (Cheyette, 2003). But the unwary may take the iconic image of the Cat in the Hat (or, in some cases, the name 'Dr Seuss') as a sign of the book's authorship. For example, though Ron Howard's *Dr Seuss's How the Grinch Stole Christmas!* (2000) differs from Dr Seuss's version, it uses Seuss's

name in the title and its phenomenal success (it grossed $55 million in its first weekend alone) may make it the best-known version of Seuss's story.[3] The film, the pseudo-Seuss books and the television show *The Wubbulous World of Dr Seuss* (its title an obvious play on *The Wonderful World of Disney*), sanitize Dr Seuss. Contrary to these projects' heavy-handed moralism, Seuss was a contrarian who enjoyed challenging people to reconsider their assumptions. He was a mainstream publishing phenomenon who used his celebrity to promote an activist agenda. Seuss wrote *The Sneetches* (1961) to criticize anti-Semitism, modelled *Yertle the Turtle* (1958b) on the rise of Hitler, created *The Lorax* (1971) to call attention to corporate abuse of the environment, and penned *The Butter Battle Book* (1984) as a critique of Reagan's enthusiasm for the nuclear arms race. Turning Seuss into another Disney threatens to make 'Seuss' synonymous with the ambiguous power of global capitalism.

Just what the doctor ordered?

Before we too-quickly attribute the Disneyfication of Dr Seuss to the machinations of the marketplace, we must consult Dr Seuss Enterprises, the corporation that oversees the licensing of all Seuss merchandise – everything from the original books and TV specials to the action figures and the theme park. All major decisions by Dr Seuss Enterprises are arrived at by consensus of the Board of Directors (Audrey Geisel, Karl ZoBell and Herb Cheyette), of which Mrs Geisel (Seuss's widow) is *prima inter pares*. Seuss saying that he would 'rather go into the *Guinness Book of World Records* as the writer who refused the most money per word' may indicate that Cheyette and Geisel are not upholding Seuss's wishes. However, the source of the *Guinness* anecdote is none other than Herb Cheyette. Recalling that Theodor Seuss Geisel 'was reluctant to merchandise Seuss characters', Cheyette tells the story of 'a major television advertiser who offered a vast sum of money for the right to use a Dr Seuss character in a holiday message' (Lathem, 1996: 24). Jed Mattes, then Geisel's book agent, sent some unpublished Seuss verses to the delighted sponsor, who in turn created storyboards based on the verses. When Ted saw the storyboards, he 'indicated that he really didn't want Dr Seuss to be connected to a particular religious holiday or with a product large doses of which might have uncertain effects on children' (Lathem, 1996: 25). In response, the sponsor offered even more money. Ted still wouldn't allow the commercial.

In a final attempt to persuade him, Cheyette said, 'Let me put on my agent's hat for a minute. These verses consist of less than a hundred words. If you accept this deal you will go into the *Guinness Book of Records* as the writer who was paid the most money per word'. Ted thought for a moment, and then answered, 'I'd rather go into the *Guinness Book of Records* as the writer who refused the most money per word' (Lathem, 1996: 26).

Though Dr Seuss objected to this particular project, Cheyette says that he was not philosophically opposed to marketing schemes.[4] He says that Seuss responded 'to more than one marketing proposal' by asking, 'Why should I spend my time correcting the works of others when I can spend the same amount of time creating new works? There will be plenty of time after my death' (Cheyette, 2001a). In other words, Seuss's resistance to marketing proposals may have arisen not out of any desire to prevent what I have been calling Disneyfication, but out of perfectionism. As Cheyette explains, Seuss was a 'still-creative perfectionist' in the 'final quarter of his life': were he to involve himself with marketing proposals, his creative output would suffer.

Seuss's biographers agree that his perfectionism led him away from 'commercial decisions in his final years', but doubt that Seuss would approve of 'the swift flood of after-death marketing' (Morgan, 2002). In 1997, Judith Morgan, who was also a neighbour of Ted and Audrey Geiesl, told the *New York Times*' Dinitia Smith, 'You look back: there weren't even t-shirts'. Of the recent flurry of marketing, she said, 'I do not think he would have allowed it. It's become an empire since his death. It used to be one man and one desk' (Smith, 1997: B12). Christopher Cerf, the son of Bennett Cerf (Seuss's publisher at Random House), appears to agree with Ms Morgan. Interviewed for the same article, Cerf observed, 'If he were around, he would be absolutely resisting this, or riding herd like the perfectionist he was. I hope things remain true to his vision'. Though Cerf, like Cheyette, identifies perfectionism as the cause of Seuss's resistance, he does not express any enthusiasm for the recent hypercommercialization of Seuss. Seuss's opposition may, indeed, have stemmed from perfectionism. In 1959, he was critical of the Revell Corporation's versions of Seuss creatures; in the 1980s, he didn't like Coleco's versions either – and in 1987, Cheyette arranged for a buyout of the rest of Seuss's contact with Coleco (Morgan and Morgan, 1995: 165, 259–60).

'The Morgans' portrayal of Ted Geisel as a monetarily indifferent idealist is only partially true', Cheyette says (2001a). After all, Seuss's roots were in advertising: before writing children's books, Seuss sold mail-order sculptures and made his name with campaigns for Flit bug spray and Essolube motor oil. Seuss has even credited his advertising experience with being 'helpful to me as a writer of children's books', because it 'taught me conciseness and how to marry pictures with words' (Wintle and Fisher, 1975: 115). Professing indifference to wealth (Seuss often called money 'a necessary evil' (Wintle and Fisher, 1975: 123)), Seuss gave away much of his. Through the Dr Seuss Foundation (established in 1958), Seuss gave to the Scripps Clinic and Research Foundation in La Jolla; Tougaloo, a small Mississippi college; and SOFA (Strongly Organized for Action), 'a non-profit group that operated a child care center for La Jolla's ethnic community' (Morgan and Morgan, 1995: 258). In 1998, when San Diego's Old Globe Theatre wanted to give poorer children free tickets to its stage production of *How the Grinch Stole Christmas!*, Audrey Geisel 'waived all royalty payments and

donated more than $100,000 from the Dr Seuss Foundation to help cover costs' ('Giving a Grinch for the Holidays'). In addition, Mrs. Geisel gives to most of the charitable organizations in San Diego and La Jolla, including the San Diego Museum of Art and the Museum of Photographic Art. She also provided a $20 million endowment for the University of California at San Diego, was the principal donor for the Dr Seuss National Memorial and is a major continuing benefactor of Dartmouth College. Today, the Dr Seuss Foundation provides primary support for over one hundred medical, cultural and socially active institutions (Cheyette, 2003). As Cheyette (2001a) puts it, 'A literary and artistic genius not indifferent to the relationship of art and commerce, [Seuss] spent a great deal of thought making certain that his estate would continue to generate income to benefit society'.

Some may be inclined to ask – surely Seuss's many books and several TV-specials generate enough income to keep the Dr Seuss Foundation in robust fiscal health? That is, the continued popularity of the Seuss oeuvre may prompt speculation about whether or not the more recent projects are desirable.

Trademark vs. copyright

Herb Cheyette, Audrey Geisel and Karl ZoBell (Mrs Geisel's lawyer) all say that the best way to protect an author's rights is through trademark, not copyright. As Cheyette points out, 'A peculiarity of the American legal system is that commerce is valued more than art. As a consequence, copyrights are protected for a limited period of time, trademarks are enjoyed in perpetuity. Trademarks can only be acquired by utilizing works for commercial purposes' (Cheyette, 2001a). ZoBell notes, 'Under the rules governing trademarks, if you don't defend them or use them you lose them and they fall into the public domain. In order to protect the characters, we had to go into the marketplace' (Smith, 1997: B12). Or as Audrey Geisel says, 'I wish the Cat to go on indefinitely as a literary cat, not a cartoon cat. The alternative was to kill it' (Smith, 1997: B1).

If the alternative to pursuing trademark protection was to 'kill' the Cat in the Hat by allowing him to remain under the protection of copyright alone, then we might wonder how and why trademark would be more advantageous than copyright. According to US Copyright Law (title 17, passed 1976), copyright applies to 'original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device' (*Copyright Law of the United States*, 2001). Copyright does *not* protect titles, names, short phrases, or slogans (US Copyright Office, 2000). In contrast, trademark is 'a word, name symbol or device which is used in trade with goods to indicate the source of the goods and to distinguish it from the goods of others', according to the US Patent and Trademark Office (US Patent and Trademark

Office, 2001). In plain English, copyright protects authors (and artists), but trademark protects products and the marks attached to those products. So, copyright protects the TV special or book of *The Cat in the Hat*, but trademark protects the image of the Cat himself, as the logo of Random House's 'Beginner Books' series or as attached to any product.

Another strength of trademark is its duration. Trademarks last as long as they remain in use, although they need to be renewed every 10 years (if granted on or after 16 November 1989) or 20 years (if granted prior to 16 November 1989). In contrast, copyright lasts for a fixed period of time. As per the Sonny Bono Copyright Term Extension Act, signed into law on 27 October 1998, copyright on works published after 1978 now lasts for the author's life plus 70 years. For 'pre-1978 works still in their original or renewal term of copyright', copyright lasts 95 years from 'the date that copyright was originally secured' (US Copyright Office, 2001). Therefore, *The Cat in the Hat* and *How the Grinch Stole Christmas*, both published in 1957, will remain under copyright until 2052. In contrast, a Grinch action figure could be protected by trademark indefinitely – as long as it's being made, the trademark would be enforced. In other words, Mr Cheyette, Mr ZoBell and Mrs Geisel make a valid claim. If trademark is more powerful (and therefore more desirable) than copyright, then why not bring the Cat and the Grinch into the marketplace? Since trademark protects products, take a literary character and turn him into a commodity. Under American law, 'commerce is valued more than art', as Mr Cheyette says.

Theodor Seuss Geisel may have arrived at the same conclusion in 1968, when he encountered 'Dr Seuss's Merry Menagerie', a series of six different vinyl dolls based on cartoons he had drawn for *Liberty Magazine* in 1932. The resulting lawsuit – *Geisel* v. *Poynter Products Inc., Alabe Crafts Inc., Linder, Nathan & Heide Inc. and Liberty Library Corporation* – offers a glimpse into how and why Dr Seuss and his heirs would seek protection under trademark instead of copyright. Dr Seuss's cartoons ran in *Liberty* from June through December of 1932, for which Geisel was paid $300 a piece. Regarding ownership of these cartoons, Geisel understood that 'while Liberty had the complete rights to publish these works in one issue of *Liberty Magazine*, Liberty held all other rights to this work (including the right to renew the copyright and the right to make other uses of the work) in trust' for him. However, there was no written agreement. Fulton Oursler, *Liberty*'s editor-in-chief, thought that Dr Seuss cartoons would be 'very suitable' for the magazine. Geisel agreed, and Oursler said, 'Glad to have you on board'. That conversation was the contract (*Geisel* v. *Poynter Products*, 1968b).

Liberty Magazine ceased publication in 1950, and Lorraine Lester – herself an author of stories that appeared in the magazine – bought its copyright library. In 1964, at the suggestion of Robert Whiteman, she founded the Liberty Library Corporation in order to 'make money by exploiting the literary properties' contained in the magazine. In December of 1964, Whiteman invited Geisel to

join with Liberty Library in developing products based on this material or to repurchase the rights to these works. Geiesl declined, and his attorney, Frank Kockritz, sent a telegram indicating that he did not recognize Liberty's rights to these cartoons and that he 'reserv[ed] the right to institute a lawsuit' (*Geisel* v. *Poynter Products*, 1968b). Without his or Geisel's consent, Liberty Library signed an agreement with Universal Publishing, which in 1967 published *Dr Seuss's Lost World Revisited: A Forward-Looking Backward Glance*, marketing it as 'A book for grown-ups by the celebrated author-illustrator of the most popular children's books of our time' (Seuss, 1967). That same year, Liberty sold to Poytner Products the rights to produce dolls based on the cartoons. When they hit the marketplace in March of 1968, the dolls were advertised as 'Dr Seuss's Merry Menagerie' and 'From the Wonderful World of Dr Seuss'. In April, Geisel filed an injunction against Poynter, Liberty, Alabe Crafts (distributor of Poynter's products), and Linder, Nathan & Heide Inc. (manufacturer's representative for Alabe), claiming that they had violated trademark laws by 'falsely representing these dolls as the product of Dr Seuss, which they are not, or has having been approved by Dr Seuss, when they were not' (*Geisel* v. *Poynter Products*, 1968a). In a New York federal court on 9 April, Judge William Herlands declared that there was a 'reasonable probability' of Geisel's success in proving this claim, and ordered the defendants to stop

> A. Representing that defendants' doll, toy or other similar product has been created, designed, produced, approved or authorized by plaintiff [Geisel];
> B. Describing defendants' doll, toy or other similar product as having been created, designed, produced, approved or authorized by plaintiff; or
> C. Representing, describing or designating plaintiff as the originator, creator, designer or producer of defendants' doll, toy or other similar products.
>
> (*Geisel* v. *Poynter Products*, 1968a)

So, Geisel won that round and was poised to win the case.

However, the defendants paid close attention to the language of this preliminary injunction and realized that all they needed to do was to change *their* language. Which they did. After the injunction, they changed the tags from 'Dr Seuss's Merry Menagerie' to 'Merry Menagerie. Toys Created, Designed & Produced Exclusively By Don Poynter. Based on Liberty Magazine Illustrations By Dr Seuss' (*Geisel* v. *Poynter Products*, 1968b). And they not only continued to sell the toys but stripped away the strongest element of Geisel's legal case: protection under the Lanham Act (also known as the Trademark Act of 1946), which prohibits 'false or misleading description' likely to deceive the public into thinking (in this case) that Dr Seuss had authorized production of the dolls. As Judge Herlands concluded on 10 December 1968, the new tag's use of the phrase

'based on' now 'accurately clarifies the genetic link between the cartoons and the dolls' (*Geisel* v. *Poynter Products*, 1968b).

Geisel also objected that the dolls were 'tasteless, unattractive and of an inferior quality'. If you compare the Poynter dolls with the Seuss Multi-Beasts produced by Revell (and authorized by Geisel), then you will see that this objection is absolutely right. Poynter's dolls are not nearly as attractive products, and their ugliness entitled Geisel to protection against defamation: poor-quality dolls bearing the name 'Dr Seuss', Geisel's lawyers argued, 'hold him up to ridicule and contempt in his profession as a distinguished artist and author'. While conceding that Dr Seuss was a 'distinguished artist and author', the judge lacked the aesthetic sensibilities to perceive the dolls' mediocre quality, concluding instead that the dolls had been 'made with great care skill and judgment by a qualified designer and manufacturer'. Since the judge had not deemed the products inferior, Geisel's case was all but hopeless in US courts. The Berne Convention recognized Geisel's right 'to object to any distortion, mutilation or alteration of his work' even *after* the copyright had been transferred to another party, but the USA did not (and does not) uphold the Berne Convention. More damaging to Geisel's lawsuit was the judge's conclusion that Liberty Library (as owners of *Liberty Magazine*) owned the copyright to Seuss's cartoons and that *because* they owned this copyright, Dr Seuss had 'no absolute monopoly in the name "Dr Seuss"'. In other words, though Ted Geisel had been using the pseudonym 'Dr Seuss' since 1927, the court ruled that he did not own exclusive rights to his name: Liberty Library owned at least the portion of his name connected to these cartoons. In a ruling that was at times sarcastic and condescending – it called two of Geisel's expert witnesses 'incredible and facetious' and their testimony 'simplistic and unconvincing' – Judge Herlands decided in favour of the defendants (*Geisel* v. *Poynter Products*, 1968b). Dr Seuss lost. He was unable to prevent production of these products and he received no financial compensation from their sale.

This experience may well have led Seuss and his agents to conclude that, in America, copyright can best be protected in the marketplace, via trademark law. As Charles Cohen writes, 'On the heels of the Poynter case, Ted approved the largest single production of Seussiana as the new decade began' (Cohen, 2002). In 1970, characters from Seuss's children's books appeared on lunchboxes and bedroom sets (including beds, bedspreads, sheets, curtains, wallpaper, tables, towels and bathmits), and in the form of puppets, talking dolls and educational toys. So, what I have been calling the Disneyfication of Dr Seuss is *not* strictly a posthumous phenomenon. It begins in 1970, as Seuss accepts his lawyers' – and the court's – conclusion that trademark is more powerful than copyright. As Jane M. Gaines points out in her *Contested Culture: The Image, the Voice, and the Law* (1991), since the landmark Sam Spade case (1954) entertainment law has come to see trademark as more powerful than copyright. The Sam Spade case – officially know as *Warner Brothers, Inc.* v. *Columbia Broadcasting Co.* – 'turned on

whether Warner Brothers' motion picture rights to the novel *The Maltese Falcon* included the right to enjoin author Dashiell Hammett from using the character in sequels'. The court allowed Hammett 'to continue to use his literary creation', but it also decided that characters were 'mobile pieces in relation to the *work*, the wholeness and totality of which is crucial to copyright law' (Gaines, 1991: 211). The result was that the 'Characters – the "mere chessmen", devices or vehicles for telling the story – were now seen as less protectable as authorial creations than the work itself' (Gaines, 1991: 211–12). Where copyright law failed to protect the characters or title of a work, trademark, 'with its emphasis on source, origin and sponsorship, not authorship, protected both title and character if one or the other "indicated" programs or stories emanating from the same source' (Gaines, 1991: 212). Seuss had been operating under an older version of copyright law, and his loss in *Geisel* v. *Poynter Products* taught him that the law had changed since 1932. Since copyright law no longer protected him as it once had, Seuss did what many in the entertainment industry did. He sought protection under trademark law.

Regarding the use of trademark law, James Wadley, Professor of Law at Washburn University, suggests that Dr Seuss Enterprises' motives may differ from Dr Seuss's motives. Wadley, who specializes in intellectual property, notes that '[u]sing a Seuss character as a trademark will not undo' the copyright law: barring another copyright term extension act, *The Cat in the Hat* and *The Grinch* will go into the public domain in 2052 whether or not action figures bearing their likenesses are being sold. The real motive of going for trademark protection, Wadley suspects, is to scare others away from using it. As he says, 'What the Seuss people are telling you is that given the inevitability of things moving into the public domain, the best they can hang onto is some of that as trademark' (Wadley, 2002).

Wadley's remarks bring to mind an earlier – and perhaps the earliest – definition of Disneyfication. Ariel Dorfman and Armand Mattelart's *How to Read Donald Duck: Imperialist Ideology in the Disney Comic* says that Disneyfication 'is Dollarfication: all objects (and, as we shall see, actions [. . .]) are transformed into gold' (Dorfman and Mattelart, 1984: 62). While Seuss himself was not averse to marketing his own work, his books have a literary, artistic and (often) moral value in addition to their capacity to generate profit. In contrast, many 'new' Seuss items add little to his creative legacy, and some detract from that legacy. This is the key difference between 'spin-off' products produced prior to Seuss's death and similar products produced after it.

The posthumous Seuss: a reader's guide

These spin-off products are symptoms of a legal system that has, in effect, reversed trademark law. As Gaines explains, trademark law is supposed to

protect the public, guaranteeing that 'the buyer could expect, from the source behind the goods, the same values and qualities received with the last purchase'. However, 'the inversion of this principle in American common law' means that 'the trademark comes to ensure *not* that the public is protected against fraud but that the merchant-owner of the mark is protected against infringers' (Gaines, 1991: 211). This 'inversion' of trademark law leaves the public vulnerable: legal experts and businesspeople can readily tell you that a Seuss spin-off is just that, but average consumers may not be as adept at doing so. For example, of the *Grinch* film and related posthumous 'Seuss' creations, Cheyette says that 'there was no pretence that any of them were created by Dr Seuss. I cannot believe that even the most fanatical Janeite would claim that a book derived from the movie *Clueless* diminished the literary reputation of Jane Austen' (Cheyette, 2001b). Yet, given that the title of Amy Heckerling's 1995 film is not *Jane Austen's Clueless* or even *Jane Austen's Emma* but simply *Clueless*, its title does not suggest that the film will accurately represent Austen's novel (though it captures the spirit of *Emma* quite well). In contrast, a film titled *Dr Seuss's How the Grinch Stole Christmas!* does at least imply an authorized version of the source text. That said, Dr Seuss Enterprises has made an effort to distinguish Seuss's Grinch from Howard's. As Cheyette notes:

> the commercials for Frosted Mini-Wheats, Nabisco, Visa and Peppermint Patties all relate to the promotion by Universal of the *How the Grinch Stole Christmas!* motion picture and do not use illustrations from what Dr Seuss Enterprises commonly refers to as classic Dr Seuss (i.e. the books). (As a matter of fact, in order to reinforce this distinction, Dr Seuss Enterprises required Universal to depict the Grinch as he appears in the motion picture rather than in the book illustrations. For similar reasons, the Cat in the Hat puppet in the Wubbulous World of Dr Seuss was required to differ from the classic Cat in the Hat.)
>
> (Cheyette, 2003)

While Dr Seuss Enterprises has worked to clarify the differences between the Grinches, the marketing of some posthumous 'Seuss' products makes these differences less clear. The name 'Dr Seuss' appears on all covers and related packaging and, when a book has been altered for a new format, its cover does not announce this fact. For the sake of Seuss's literary reputation, it is important that readers do not confuse (for example) the 'Fabulous Flaps' version of *Green Eggs and Ham* with Dr Seuss's original *Green Eggs and Ham*; for the same reason, it is equally important that people recognize that some books published since 1991 are valuable additions to the Seuss canon. Not all recent Seuss products are examples of Disneyfication. Here's how to tell the difference.

Exhuming Seuss: the recommended, the unfinished and the mediocre

The Secret Art of Dr Seuss (Seuss, 1995) and Richard H. Minear's *Dr Seuss Goes to War* (1999) are two outstanding posthumous Dr Seuss books because they contain his original work, unaltered. The former offers a generous selection of Seuss's paintings that, as Maurice Sendak says in his introduction to the volume, convey a 'milky, thirties movieland dippiness' suggesting 'the private Seussian dreamscape' (Seuss, 1995). *The Secret Art of Dr Seuss* also reminds us that even though Seuss never would have called himself a 'serious artist', he was indeed a serious artist. *Dr Seuss Goes to War* introduces us to Seuss the political agitator, and Minear provides great historical context. Notably, both it and the University of California at San Diego's website *Dr Seuss Went to War* take the warts-and-all approach: we meet the heroic Seuss – championing the rights of Jewish and black Americans – and the not-so-heroic – stereotyping Japanese Americans.

These cartoons remind us that even without Disneyfication, there are Seuss books that are not politically progressive in their thinking. One expects that Dorfman and Mattelart might describe *If I Ran the Zoo* (1950) and *Scrambled Eggs Super!* (1953) as imperialist narratives that create 'a parody of the underdeveloped peoples' and that use adventure 'to mask the origin of wealth' (Dorfman and Mattelart, 1984: 98, 73). Arguably, both books encourage the child to imagine himself (both protagonists are male) into the role of American capitalist, exploiting underdeveloped nations for his own gain. In *If I Ran the Zoo*, Gerald McGrew envisions a grand 'New Zoo, McGrew Zoo' full of creatures from exotic parts of the world. In order to catch the Bustard and the Flustard, he'll 'hunt in the mountains of Zomba-ma-Tant / With helpers who all wear their eyes at a slant'. After that adventure, he decides to 'capture a scraggle-foot Mulligatawny', the 'beast that the brave chieftains ride', concluding: 'A Mulligatawny is fine for my zoo / And so is a chieftain. I'll bring one back, too' (Seuss, 1950). Though these books were written at a time when ethnic jokes were not seen as insensitive, helpers who 'wear their eyes at a slant', the importation of a 'chieftain' as if he were a raw material and the illustration of the natives from 'the African island of Yerka' will to modern readers seem at odds with the pro-equality message of *The Sneetches* and with Seuss's *PM* cartoons attacking racism. In *Scrambled Eggs Super!*, Peter T. Hooper, similarly disappointing by contemporary standards, instructs 'brave Ali' to take eggs from the Mt. Strookoo Cuckoos. Though Ali is viciously attacked by the birds, Seuss presents his suffering comically, focusing instead on the fact that Hooper gets his eggs. And, contrary to the pro-conservationist message of *The Lorax* (published 25 years later), Hooper orders a massive tree to be cut down because it's good for the egg acquisition business: 'I ordered a tree full. The job was immense, / But I needed those eggs, and said hang the expense!' (Seuss, 1953). In each book, the peoples of fictional third-world nations appear as objects of fun, ready to help the American businessboys (Gerald McGrew, Peter T. Hooper) carry their

country's riches back home. To borrow Dorfman and Mattelart's language, the 'treasure is attained by a process of adventuring, not producing. Yet another name [. . .] to mask the origin of wealth' (1984: 73).

The Dr Seuss of *If I Ran the Zoo* and *Scrambled Eggs Super!* is not the Dr Seuss of *The Sneetches*, *The Lorax*, *Yertle the Turtle, How the Grinch Stole Christmas!* or *Horton Hears a Who!* One reason for the discrepancy, as Judith Morgan suggests, may be that *If I Ran the Zoo* and *Scrambled Eggs Super!* were published before *The Cat in the Hat*. After *The Cat in the Hat*, Seuss grew much more popular, and, using the clout conferred upon him by this popularity, 'his messages grew stronger' (Morgan, 2002). A related reason for the discrepancy, I think, is that Seuss did not see the earlier two books as political and he did see these other, later books as political. Of course, all books have political dimensions and one should not overlook these ideological blind spots. At the same time, most of Seuss's other original works present much more progressive messages about wealth, power and people of different racial and ethnic backgrounds. He was very worried, for example, when someone told him that the stars on his Sneetches might be seen as anti-semitic. As his publisher Robert L. Bernstein remembers, Seuss 'despised even the slightest hint of any kind of racism, and had to be convinced that his book would not be misinterpreted' (Lathem, 1996: 42).

Though Seuss created many books that were progressive in their racial politics, not a single book published during his life presents an admirable female protagonist. However, one book published after his death does: *Daisy-Head Mayzie* (1994). As Alison Lurie pointed out in a 1990 essay, Seuss's work has an 'almost total lack of female protagonists': 'little girls play silent, secondary roles' (Lurie, 1990: 51) and adult females – like Mayzie of *Horton Hatches the Egg* (1940) or Gertrude McFuzz (whose story appears in *Yertle the Turtle and Other Stories*) – are portrayed as vain or selfish. One little girl who does not play a secondary role soon learns that she should: in 'The Gunk that Got Thunk' (from *I Can Lick 30 Tigers Today and Other Stories*) she thinks up a dangerous Glunk, which her brother then must un-think. Lurie concludes, 'Moral: women have weak minds; they must not be ambitious even in imagination' (Lurie, 1990: 52). Seuss responded to her criticism by noting that most of his characters were animals, adding, 'if she can identify their sex, I'll remember her in my will' (quoted in Morgan and Morgan, 1995: 286). Whether or not one agrees with Seuss's reply, *Daisy-Head Mayzie* offers a stronger rebuttal in the character of Mayzie McGrew, who inadvertently grows a flower out of the top of her head. As in David Small's *Imogene's Antlers* (1985), the problem is not the unusual item sprouting from the girl's head, but grown-ups' reactions to it. If flower or antlers are metaphors for each child's imagination, then both books appear to praise girls' minds while satirizing those who are offended by such 'abnormal' cranial activity. Although the flower disappears near the end of *Daisy-Head Mayzie*, we learn on the final pages that it 'occasionally' pops up 'now and then' and that Mayzie is 'getting used to it' (Seuss, 1994).

Valuable for its central female character, *Daisy-Head Mayzie* succeeds less well in its story and in its art. The book derives from a draft of a script by Seuss, which was then finished and animated by Hanna-Barbera Cartoons. While its verse is never as leaden as that in *Oh Say Can You Seed?* or other ersatz 'Seuss' books, *Daisy-Head Mayzie*'s poetry does feel more like an early draft than a finished product. Its illustrations are not Seuss's but, according to the dust jacket, 'were inspired by Dr Seuss's sketches found in his original manuscript'. When reading the verse or looking at the pictures, it is not clear how much comes from Seuss's original and how much was adapted or revised by Hanna-Barbera.

Hooray for Diffendoofer Day! (Seuss *et al.*, 1998) solves the problems of *Mayzie* by including a facsimile of the original draft at the end of a book, in a section titled 'How This Book Came to Be'. Offering readers a glimpse at the creative processes of Dr Seuss, the section also distinguishes Seuss's contributions from those of his collaborators, each of whom is quite distinguished in his own right. Poet Jack Prelutsky and illustrator Lane Smith do not merely try to imitate Dr Seuss: each brings his own distinctive style to the project, and in so doing enters into a genuine artistic collaboration that succeeds magnificently. The result is not a Dr Seuss book; it is a Seuss-Prelutsky-Smith book, and a good one at that. Lane – a Caldecott honouree for Jon Scieszka's *The Stinky Cheese Man and Other Fairly Stupid Tales* (1992) – and Prelutsky – known for his irreverent verse in books like *The Snopp on the Sidewalk* (1977) – share Seuss's ability to view the world from the wrong end of the telescope. Like Seuss's, theirs is a wacky creativity, a nonsense that ignites the imagination. In Diffendoofer School, Seuss, Prelutsky and Smith create a delightfully offbeat classroom. Unlike the test-driven world of today's public schools, Diffendoofer School's 'teachers are remarkable, / They make up their own rules'. From a faculty full of unconventional teachers, Miss Bonkers is the students' favourite: 'She even teaches frogs to dance, / And pigs to put on underpants. / One day she taught a duck to sing – / Miss Bonkers teaches EVERYTHING!' (Seuss *et al.*, 1998). More than just an admirable adult female character, Miss Bonkers answers the question, 'If the Cat in the Hat had a (human) cousin who became a teacher, what would she be like?' Through its surprising teachers, the book suggests that unconventional methods work best: when forced to take a standardized test, the students of Diffendoofer receive 'the highest score!' and their principal declares it 'Diffendoofer Day!' and gives everyone the rest of the day off. *Diffendoofer Day!* is a not-Seuss book that is very much in the spirit of Seuss. Along with *The Secret Art of Dr Seuss* and *Dr Seuss Goes to War*, *Hooray for Diffendoofer Day!* is one of the three best 'Seuss' books to be published since his death.

If *Diffendoofer Day!* deserves three cheers, then *My Many-Colored Days* deserve about two. Accompanied by illustrations done in the style of colour field painting, Seuss's verses affirm the varieties of emotional experience: 'Some days are yellow. Some are blue. / On different days I'm different too. You'd be surprised how many ways / I change on Different Colored Days', Seuss advises

(Seuss, 1996d). Its co-illustrator Steve Johnson has, like Lane Smith, worked with Jon Scieszka, but Johnson adopts a style here that's less zany (and less Seussian) than his work in Scieszka's *The Frog Prince Continued*. According to Mrs Geisel, the illustrations of Johnson and Lou Fancher are intentionally different: 'Though his inspiration for this book was personal, he [Seuss] felt that someone else should bring his or her own vision to it. He wanted the illustrations to be very different from his', she observes on the back inside flap of the dust jacket. The front inside flap of the dust jacket quotes a letter from Seuss, in which he hopes 'a great color artist who will not be dominated by me' would illustrate the book. In the portion of the letter not quoted on the dust jacket, Seuss adds, 'Of course I would love to paint this book myself, but I have so many major Dr Seuss books that I have got to do, I just won't have time'. Earlier in the letter, Seuss identifies *My Many-Colored Days* as 'one of three I am working on for next year's [1974's] Beginner Book Bright and Early line, under different bylines. One will probably be a Seuss, one a LeSieg, and this color book probably under another nom de plume' (Geisel, 1973). While the published version of *My Many-Colored Days* was illustrated by 'great color artists', it was not done as a Bright and Early Book under a different pseudonym – Seuss used different names (most frequently Theo LeSieg) on books he felt were not quite up to the 'Dr Seuss' standard. So, if *My Many Colored-Days* does not rank with the greatest Dr Seuss books, we should know that Seuss did not want his famous pseudonym associated with it. While the book does not appear to have been produced entirely in accord with his wishes, it does offer readers another side of Seuss and it is at least *not* Disneyfication.

Even among the worthy posthumous Seuss projects, we have something of a mixed bag: *Hooray for Diffendoofer Day!*, *The Secret Art of Dr Seuss*, and *Dr Seuss Goes to War* are welcome additions to the Seuss oeuvre and to children's literature. Lesser works *Daisy-Head Mayzie* and *My Many-Colored Days* are, nonetheless, of interest by showing other facets of Dr Seuss. In any case, in the realm of posthumous Dr Seuss books, these are the best of the bunch.

The aphoristic Seuss

Seuss-isms (1997b), *Seuss-isms for Success* (1999a), and *Oh, Baby, the Places You'll Go!* (1997a) all bear the 'Dr Seuss' name, but they are not really 'Dr Seuss' books. At 27 pages in length and less than six inches tall, the books seem designed to be sold at the check-out counter as an 'impulse' purchase. Each attempts to capitalize on Seuss's penchant for aphorism by providing 'Seuss-isms' selected or adapted from Seuss's works. Given Seuss's gift for providing pithy morals, one can see the appeals of such a project. Many Americans could quote 'A person's a person, no matter how small' (Seuss, 1982) and 'I meant what I said, / and I said what I meant . . . / An elephant's faithful / One hundred percent' (Seuss, 1940). The latter appears in *Bartlett's Familiar Quotations* (16th edn, 1992), next

to a quotation from *The Cat in the Hat*. Of these three small 'Dr Seuss' books, *Seuss-isms: Wise and Witty Prescriptions for Living from the Good Doctor* most nearly lives up to its premise. The quotations are both well chosen and well captioned. For example, though *One fish two fish red fish blue fish* may not be explicitly about diversity, the caption 'On diversity' works well when accompanying verses like 'We see them come. / We see them go. / Some are fast. / And some are slow. Some are high. / And some are low. / Not one of them / is like another. / Don't ask us why. / Go ask your mother' (Seuss, 1997b). Placing this quotation under this heading suggests that *One fish two fish red fish blue fish* (1960/1988b) suggests that Seuss was already thinking about the anti-discrimination message of *The Sneetches*, published the following year. And 'On equality and justice' is the perfect heading for 'I know, up on top you are seeing great sights / But down at the bottom we, too, should have rights', a couplet from *Yertle the Turtle*, a book that advocates standing up for one's rights. In her introduction to the volume, Audrey Geisel wisely suggests that Seuss's 'books contain more sane, sensible and just plain hilarious advice for living than most of the self-help books crowding bookstores today' (Seuss, 1997b). While it is not known whether Seuss himself aspired to publish self-help books, *My Many-Colored Days* and his many pieces for *Redbook* could certainly be placed in the self-help genre. As Mrs Geisel concludes, 'I think Ted would have approved of *Seuss-isms*'.

While he may well have approved of *Seuss-isms*, it is doubtful whether Dr Seuss would have endorsed *Seuss-isms for Success: Insider Tips on Economic Health from the Good Doctor*, and perhaps the absence of any introductory remarks from Mrs Geisel signals a tacit acknowledgment of this fact. Under the heading 'On Growth' is the following quotation from *The Lorax*: 'I laughed at the Lorax, "You poor stupid guy! / You never can tell what some people will buy". // Business is business! And business must grow / regardless of crummies in tummies, you know' (Seuss, 1999a). Though the excerpt provides no indication, the 'I' is the Once-ler, Seuss's repentant ex-industrialist, explaining how his business practices destroyed the environment. Seuss's book criticizes the Once-ler for giving the Brown Bar-ba-loots 'crummies in tummies', but *Seuss-isms for Success* conveys the impression that 'crummies in tummies' are a natural part of 'growth': for business to expand, people will suffer – don't worry about it. Seuss's *The Lorax* disagrees with this message and with the Once-ler's proud claim, 'You never can tell what some people will buy' (Seuss, 1971). *The Lorax* quite clearly condemns the Once-ler's Thneed corporation for exploiting the environment, but *Seuss-isms for Success* praises the Once-ler's business acumen. Unlike *Seuss-isms*, which does not twist Seuss's verse to promote values that Seuss opposed, *Seuss-isms for Success* snips quotes from context, sometimes bending them against their author's intentions.

Like the *Seuss-isms* books, *Oh, Baby, the Places You'll Go!: A Book to Be Read In Utero* bears the name 'Dr Seuss' on the spine. Unlike these other books, the front cover includes the words 'adapted by Tish Rabe from the works of' (in a small

font) prior to the name 'Dr Seuss' (in a font nearly three times that size). If it does at least acknowledge its 'adapted' status on the cover, *Oh, Baby, the Places You'll Go!* takes a step beyond the aphoristic Seuss, creating a bland pastiche of *Oh, the Places You'll Go!*, *Happy Birthday to You!*, *Yertle the Turtle and Other Stories*, *The Sneetches and Other Stories*, *Thidwick the Big-Hearted Moose*, *The Cat in the Hat*, *Horton Hears a Who!*, *Green Eggs and Ham*, *Scrambled Eggs Super*, *How the Grinch Stole Christmas!*, *McElligot's Pool*, *Hop on Pop*, *On Beyond Zebra!*, *To Think That I Saw It on Mulberry Street*, *I Had Trouble in Getting to Solla Sollew*, *If I Ran the Circus*, *If I Ran the Zoo*, and including references to *Daisy-Head Mayzie*, *Hunches in Bunches*, and *The 500 Hats of Bartholomew Cubbins*, thrown in for good measure. All of that in 27 small pages. As might be expected, blending pieces of 20 books creates an incoherent mess. However, the book's inspiration, according to its introduction, is Dr Seuss's interest in research on babies whose 'mothers and fathers read aloud to [them] in utero' (Seuss, 1997a). The parents read *The Cat in the Hat*, and researchers found 'increased uterine activity during the reading'. The book does not cite any research indicating why parents would want or need to switch from a first-rate Seuss book (like the *Cat in the Hat*) to a third-rate amalgamation (like *Oh, Baby, the Places You'll Go!*), but this research could be still ongoing. Whatever the intentions of Ms Rabe may have been, *Oh, Baby, the Places You'll Go!* reads rather like a commercial for Dr Seuss. It ought to be called *Dr Seuss's Greatest Hits*, since its narrative consists of introducing a baby (who in at least one drawing resembles R. F. Outcault's 'Yellow Kid') to Dr Seuss's characters: 'There's Daisy-Head Mayzie / and Cindy-Lou*Who*, / Hunches in bunches / and Lolla-Lee-Lou'. And 'Bartholomew Cubbins, / Marco, and Max, / and also the North- / and the South-Going Zax'. And on and on.

Wubbulous

If Rabe's 'adaptation' of Seuss creates a bland pastiche, then the 'Wubbulous' books embrace pastiche in a truly Jamesonian sense. They are (in Fredric Jameson's terms), 'blank parody', a 'neutral practice of [. . .] mimicry, without any of parody's ulterior motives, amputated of the satiric impulse' (Jameson, 1991: 17). Books labelled 'The Wubbulous World of Dr Seuss' are not of Dr Seuss's world. Derived from Jim Henson Productions' television series of the same name, the 'Wubbulous' books star Muppets dressed up as Seuss's characters, with a supporting cast of other Muppets portraying what are supposed to be Seuss character types. Suffering from fundamentally flawed scripts, these particular Muppets put on saccharine productions that deliver morals in a heavy-handed way. As 'The Cat in the Hat's Learning Library' series does, *The Song of the Zubble-wump* (Rabe, 1996) transforms the wily Cat in the Hat into a paternalistic moralist. Upon rescuing a Zubble-wump's egg from the Grinch (who, in the illustration, looks like the love-child of Grover and Oscar the Grouch), the Cat announces, 'That egg is a miracle!' and then delivers a homily on sharing.

Megan Mullaly, the Muppet-child to whom the sermon is addressed, demonstrates that she has learned her lesson by reciting a speech that ends with 'amen' (Rabe, 1996). However, in his own writing, Seuss resisted such preachy clichés: he avoided ending *How the Grinch Stole Christmas!* with 'Amen' precisely because he did not want to 'sound like a second-rate preacher or some biblical truism' (quoted in Morgan and Morgan, 1995: 159). Wubbulous books seem quite comfortable with such clichés, however.

As David Hiltbrand writes in a review for *TV Guide*, the scripts 'leave much to be desired'. 'The Wubbulous World of Dr Seuss', he concludes, 'doesn't live up to its pedigree. If you're going to put Dr Seuss's name in the title, you had better be wubbulous and then some' (Hiltbrand, 1998: 66). *The King's Beard* (Rabe, 1997) resurrects Yertle, casting him as advisor to King Lindy, a Muppet with a long beard. 'Good King Lindy' – though 'no one thought he was clever' – remains on the throne because he has the longest beard. Where *Yertle the Turtle* encourages political protest, *The King's Beard* does not. In Seuss's original, Mack's 'burp' topples the despotic King Yertle; in *The King's Beard*, Yertle is cast in the role of 'Great Crowd Unrester'. Suggesting that activists have purely selfish motives, Yertle pits Kings Lindy and Noodle against one another. As Yertle explains, 'when these kings go to war, / the result will be chaos like never before. / And when the smoke clears, *I'll* be king – for all time! / King Yertle the Turtle of Nug *and* of Lime!' (Rabe, 1997). In the end, one king's daughter marries the other's advisor and both kings rule benevolently over their kingdoms. While it is accurate to cast Yertle in the role of the villain, the book is at variance with Seuss books in suggesting that activists are sneaky and monarchs benevolent. As Henry A. Giroux says of Disney's films: 'The seemingly benign presentation of [. . .] dramas in which [. . .] leadership is a function of one's social status suggests a yearning for a return to a more rigidly stratified society, one modelled after the British monarchy of the eighteenth and nineteenth centuries' (Giroux, 1997: 63). In this sense, *The King's Beard* is much more like Disney than like Seuss, whose post-war books tend to be sceptical of leaders whose primary qualification is their social status. If there is good news here, it is that the Wubbulous books – which, incidentally, have produced spin-offs of their own, such as *The Zubble-wump!* (a 'Chunky Shape Book'), *What's a Zubble-Wump?* (a 'Lift-And-Peek-A-Board Book') – may soon be unavailable. The television show, which remains available on videocassette, was cancelled and the books are now out of print.[5]

Whatever the aesthetic failings of the *Wubbulous* series or the *Grinch* film, it is vital to understand that Dr Seuss Enterprises does *not* have complete control over the final product. The company chooses people with a good track record: Jim Henson Productions, which has given us the delightful series *Bear in the Big Blue House*; Ron Howard, the director of some fine films, including *Splash*, *Apollo 13* and the Academy-Award-winning *A Beautiful Mind*; and Brian Grazer, who in addition to producing *The Grinch*, has been nominated for 20 Academy Awards

and 17 Emmys. After making these choices, Dr Seuss Enterprises has to trust the creative and commercial instincts of the people it has chosen. As Herb Cheyette explains:

> Movie and television productions cultivate a mass audience. Because it costs far more to produce a movie than a book, studio and networks are unlikely to violate the norms of popular culture to avoid deterring possible ticket buyers and viewers. A rights holder such as Dr Seuss Enterprises can either abstain from mass media exploitation or agree to such exploitation under the most favourable auspices. Because of its financial responsibilities and objectives, and knowing that Ted had entered into two motion picture agreements himself, Dr Seuss Enterprises chose the latter course. The wisdom of this decision is attested by the fact that the commercial success of the motion picture dramatically stimulated book sales and prompted many foreign publishers to seek translation rights.
>
> (Cheyette, 2003)

So, then, as Cheyette points out, Jim Henson Productions, Ron Howard and Brian Grazer sought to conform to 'the norms of popular culture' in order to cultivate the widest possible audience – and, given their 'commercial success', they succeeded. Or, as Karl ZoBell wrote after reading an earlier version of this article, 'Mr Nel's opinions concerning the artistic merit of *The Grinch* motion picture, or of the television series, are of little interest. Neither was made for him; Universal and Henson had other audiences in mind' (ZoBell, 2003). And, as Cheyette says, Dr Seuss Enterprises' choices regarding both the film and the series are more than justified by the projects' financial rewards.

I also find it interesting that gifted people (in my opinion) stumble when adapting Dr Seuss. Just Jim Henson Productions and Ron Howard have done some excellent projects, so the authors of the book and lyrics of *Seussical the Musical* (2001) have some great work to their credit. Eric Idle, credited with the concept, was a member of Monty Python and of the Beatles-parody group the Ruttals; Lynn Ahrens wrote 'A Noun Is a Person, Place, or Thing' and 'Interjections!' for ABC-TV's *Schoolhouse Rock*; Ahrens and composer Stephen Flaherty wrote the musical *Ragtime*. Though *Seussical* has its problems, Idle, Flaherty and Ahrens do much better than Jim Henson Productions or Ron Howard. As Ben Brantley wrote in his review of the musical, 'The show isn't dreadful in the manner of' that 'conspicuous eyesore of a movie, *Dr Seuss's How the Grinch Stole Christmas!*' (Brantley, 2000). Unlike Tish Rabe's *Oh, Baby, the Places You'll Go!*, *Seussical*'s pastiche has been assembled with much greater care. And, to be fair, we should note that Ahrens and Flaherty may have been hampered by copyright restrictions, limiting which Seuss books they could use. As Ahrens recalls: 'We didn't have the rights to use the actual Cat in the Hat books, although we did have the right to use the character' (*Inside Borders*, 2001). Featuring the Cat in

the Hat as MC, the main plot mixes *Horton Hears a Who!* with *Horton Hatches the Egg*, weaving in subplots borrowed from *McElligot's Pool*, *The Butter Battle Book*, *Oh, the Thinks You Can Think!*, *I Had Trouble in Getting to Solla Sollew*, *Yertle the Turtle and Other Stories*, *Did I Ever Tell You How Lucky You Are?*, *Hunches in Bunches*, *Oh, the Places You'll Go!* and references to *If I Ran the Circus*, *The Lorax*, and *Green Eggs and Ham*. If the romance between Horton and Gertrude McFuzz (who here is Horton's 'next-door neighbour') feels a bit forced, casting the Cat in the Hat and Horton as defenders of the imagination is very much in the spirit of Dr Seuss. Unlike the 'Wubbulous' Cat, *Seussical*'s Cat in the Hat is much more like Seuss's anarchistic original. To its credit, the musical also retains some of the darkness absent from Howard's *Grinch* and form the Wubbulous books. Not only is there every indication that Horton may fail, but the Cat in the Hat's performances of 'How Lucky You Are' are both undercut by the dangerous contexts in which he performs them. When he first sings the song, the planet of Whos is plummeting to earth; the second time, we see bandaged Whos and the Cat himself getting caught in a rope (*Seussical*, 2001). The problems of *Seussical* appear to rely more in the staging and direction than in the script. A sense of relentless cheerfulness overwhelms the irony and blunts some of the edginess of the book and lyrics. As Brantley writes, 'The heightened brightness of the ingredients – the eye-searing design palette, the dizzying lighting effects, the bouncy orchestrations, those mega-watt smiles – perversely meld into a general gray dimness'. He concludes, 'The Whos may survive the predations of a larger, destructive universe; *Seussical*, sadly, does not' (Brantley, 2000).

Repackaging Seuss: board books and other products

While *Seussical* might have fared better in a different production (or a different reviewer), the Dr Seuss 'board books' and 'flap books' would not. Although it may seem that they were produced in an attempt to secure new copyright dates and to obtain legal protection under trademark law, Herb Cheyette says that this is not the case. 'Far from being part of a nefarious plot to deceive the unwary or to extend the life of the original copyright', he says, 'they are designed for fans of the original who have now become parents or grandparents and want to introduce toddlers to the joys of the books at the earliest possible age' (Cheyette, 2003). Although I am willing to take Mr Cheyette at his word, I think it worth noting that the covers of Seuss's board books might state more clearly that they are abridged versions of the original. The cover of the board book version of *The Carrot Seed* identifies it as being written by Ruth Krauss and illustrated by Crockett Johnson, and it does in fact contain the same text and illustrations as the original edition, published in 1945. However, the board books of Seuss's *Mr Brown Can Moo! Can You?*, *The Foot Book*, *Dr Seuss's ABC*, and *There's a Wocket in My Pocket!* have all been truncated for the new format while retaining the original cover design. Small print on the copyright pages does disclose that each book is

'adapted from' the original, and the covers provide a subtitle: *The Foot Book* is *Dr Seuss's Wacky Book of Opposites*, and *Dr Seuss's ABC* is *An Amazing Alphabet Book*. While perhaps these items should be sufficient notice of the changes, not everyone is paying attention to the subtitles and the announcements on the copyright page. My own informal interviews with students, booksellers and parents lead me to believe that, despite Dr Seuss Enterprises' good intentions, some consumers are confusing the originals with the shortened versions.

If this phenomenon is more widespread, it would be unfortunate. For instance, the board book of *Dr Seuss's ABC* diminishes Seuss's poetry and may confuse a reader unfamiliar with the original version. The original *Dr Seuss's ABC* introduces us to 'L' with 'Little Lola Lopp / Left leg. / Lazy lion / licks a lollipop' (Seuss, 1991/1963). The board book offers 'lion with a lollipop' (Seuss, 1996a). For 'M', the original describes 'Many mumbling mice / are making / midnight music / in the moonlight . . . Mighty nice'. But the board book provides only 'Mice in the moonlight'. As David Handelman wrote of the board book versions of P. D. Eastman's *Go, Dog. Go!* and *Dr Seuss's ABC*, 'both use the art from the original books but muffle the voices of their authors'. Supporting Handelman's claim, the letter 'S' in the original *Dr Seuss's ABC* observes, 'Silly Sammy Slick / sipped six sodas / and got / sick sick sick'. The board-book *ABC* says only 'Sammy's sipping soda pop'. Since Seuss accompanies this description with an illustration of a green-faced Sammy and six nearly empty soda glasses, board-book readers may wonder: why is he green? Why does he look sick? Board books can be wonderful for infants and toddlers more interested in chewing than reading. That said, it bears noting that the board books have a different flavour than the original versions.

The same is true of the 'Flap Book' versions of Seuss classics, which have also been 'adapted' – a fact again made clear in the fine print. The 'Flap Book' of *Green Eggs and Ham* – an orange-covered book very slightly shorter and about two centimetres wider than its original – may appear to be the *Green Eggs and Ham*. However, a few clues highlight its differences from the classic version: the words *With Fabulous Flaps and Peel-Off Stickers* are on the cover, albeit in smaller print than the title. The cover art includes Sam-I-Am, though the original's cover art does not. And, while the original book bears the words 'By Dr Seuss' at the bottom, the flap book says only 'Dr Seuss' at the bottom. Placed side-by-side, these differences easily mark the 'Flap Book' as a new product. But a reader not familiar with the original or who does not read the small words 'Adapted by Aristides Ruiz' (located at the bottom of the back cover) might think that Dr Seuss actually wrote this book. Yet, as Herb Cheyette explains, any confusion is unintentional. The advantage of 'Flap Books' is that they 'possess the quality of interactivity', a feature that may appeal to younger readers more than the original version does (Cheyette, 2003).

While Cheyette may be right, the alterations give these 'Flap Books' few other appeals. In addition to moving the verse around, 'Flap Books' take

characters out of their original context, squash some artwork into smaller spaces, redraw other artwork and rearrange the layout. Near the end of the original *Green Eggs and Ham*, Sam-I-Am, the (unnamed) black-hatted character, a goat, a mouse, a fox, a car and a train all tumble down on to a boat. Emphasizing the playful nature of this higgledy-piggledy collision, each character is far enough apart from the next one, suspended in mid-fall. The 'Flap Book', however, tries to merge that illustration with an earlier illustration *and* to include a flap to be lifted. As a result, the lightness and playfulness of the original drawing gets crowded out. Instead of being spread across the page, Sam-I-Am, the black-hatted character, goat, mouse, fox, *et al*. are all crammed into a tiny flap. Perhaps Mr. Ruiz, the book's adapter, thought that doing so would leave ample room to bring in the train tracks from the original book's previous two-page spread *and* to type the verse above the tracks. But it doesn't leave enough room. What was spread over four pages is now wedged into a single page.

Why? These books have new copyright dates, which led me to suppose that extending the copyright was the reason for creating the books. According to the US Copyright Office's 'Circular 14: Copyright Registration for Derivative Works', a derivative work eligible for a new copyright 'must be different enough from the original to be regarded as a "new work" or must contain a substantial amount of new material' (US Copyright Office, 1999). Both 'Flap Books' and board books are different enough to warrant a new copyright date and to claim protection under Trademark law: the 'Flap Book' of *Green Eggs and Ham* is 'TM & © 2001 Dr Seuss Enterprises, L. P.' and the board book of *Dr Seuss's ABC* is 'TM & © 1963, 1996, renewed 1991 Dr Seuss Enterprises, L. P.'. However, when I made this claim in an earlier version of this article, Mr Cheyette said that extending copyright was *not* the reason for creating the books. As he told me:

> As [for] your contention that the books are part of a secret conspiracy to extend the copyright of the originals, be advised that the derivative copyright only protects the new content. Since the derivative books contain nothing but material from the originals, the new copyright only protects the derivative format. The contents will become public domain when the original copyrights expire.
>
> (Cheyette, 2003)

So, while it may appear that the later, lesser *Green Eggs and Ham* will remain under copyright after the original is not, the contents of the board books and 'Flap Books' will also become public domain when the original copyrights are up – in this case, that would be 2061, 70 years after Seuss's death.

Fortunately for Dr Seuss Enterprises, copyright law is likely to be extended again before Seuss's books run into any danger of wandering into the public domain. As Lawrence Lessig notes in his *The Future of Ideas* (2001):

> In the first hundred years [of copyright law], Congress retrospectively extended the term of copyright once. In the next fifty years, it extended the term once again. But in the last forty years, Congress has extended the term of copyright retrospectively eleven times. Each time, it is said, with only a bit of exaggeration, that Mickey Mouse is about to fall into the public domain, the term of copyright for Mickey Mouse is extended.
>
> (Lessig, 2001: 107)

If Lessig's prediction holds true, then creating 'new' Seuss items to which a trademark might be applied may well prove redundant. Mickey first appeared on screen in 1928 and Dr Seuss's first book, *To Think That I Saw it on Mulberry Street*, was published in 1937. As long as the Disney Corporation continues to lobby on behalf of Mickey's copyright, Dr Seuss's works will continue to enjoy protection under copyright law. Since Mickey is nine years older than the first Dr Seuss book, copyright term extensions on behalf of Disney's mouse should grant legal protection to Dr Seuss's characters well in advance of their copyright's expiration.

Dr Seuss from then to now

The legal system does value commerce more than art, and so we can certainly understand why Dr Seuss and his heirs would seek protection under trademark laws. Copyrights on the original *Green Eggs and Ham*, *Dr Seuss's ABC* and *The Cat in the Hat* will expire in 2055, 2058 and 2053 (under current copyright law). Protecting the original work by means of spin-off products is a legally sound solution. As Cheyette observes, there is 'no pretence that any of' these spin-off products 'were created by Dr Seuss' and careful readers familiar with the originals should see the imitations for what they are. However, some may confuse the imitations with the originals because spin-off products bear Dr Seuss's name or characters: a reader encountering a 'Flap Book' of *Green Eggs and Ham* for the first time may have no knowledge of the original, may not be aware that there are two versions or may think that both versions are essentially 'the same'. According to *Publisher's Weekly*, the board book of *Mr Brown Can Moo, Can You?* now outsells the original version (Turvey, 2001: 25–6). Either these sales figures suggest that many people think they are the same or, as Cheyette says, the 'success of *Mr Brown Can Moo* as a board book attests to its appeal to toddlers and the correctness of Random House's market analysis' (Cheyette, 2003).

Irrespective of why the board book has succeeded, the increasing presence of repackaged versions of classic children's books will likely inspire more critics to claim, as David Handelman has, that 'In today's marketplace, it seems as though authors can be regarded almost as nuisances who, while they are alive, needlessly limit their own earning potential' (Handelman, 1999: 39). Seuss's

characters have always been commodities, but if Handelman is correct, they risk becoming *only* commodities, existing to inspire consumption but not to inspire imagination or critical thinking. The lesser quality of most spin-offs, the presence of Dr Seuss characters in advertising, and the proliferation of products bearing the 'Dr Seuss' imprimatur all create the impression that these items intend to promote consumption for its own sake. As Dorfman and Mattelart write, 'Surely it is not good for children to be surreptitiously injected with a permanent compulsion to buy objects they don't need. This is Disney's sole ethical code: consumption for consumption's sake' (Dorfman and Mattelart, 1975/1984: 66). Seuss was a businessman, but his ethical code was never consumption for its own sake. As a 1958 *Publishers' Weekly* article describing Seuss's 'autographing tour' notes:

> Dr Seuss feels very strongly that children shouldn't be forced to buy, and he objects to it when stores attempt to remove youngsters from the waiting lines if they have not actually spent any money. [. . .] He has autographed countless cards and slips of paper as well as books. The publishers also supplied huge cut-outs of Dr Seuss characters to be used as wall decorations in the book departments he visited. Neither these cut-outs nor the buttons carry any promotion copy.
>
> (*Publishers' Weekly*, 1958: 13)

If it seems hard to reconcile the Dr Seuss portrayed in this *Publishers' Weekly* article with the 'new' Dr Seuss, whose characters sell crackers, credit cards and candy, then we should remember that the article was published 45 years ago.

The business of publishing children's books has changed since 1958, and Dr Seuss knew that it had changed. As Cheyette points out, in 1990, 'Ted licensed film rights to Columbia for *Oh, the Places You'll Go!* [. . .] The license included a grant to the producers of all movie related merchandising. The deal was unattainable otherwise. Ted knew this and accepted it' (Cheyette, 2003).[6] In other words, just as the *Poynter* lawsuit did, the investment required to make a film prompted Seuss to enter into a variety of licensing agreements. Not only did Seuss agree to this merchandising, but he endorsed the idea of a theme park. As Cheyette recalls:

> In 1989 or 90, Marvin Josephson [founder of International Creative Management] and I visited Ted to convey a proposal for a theme park. Ted responded by asking, 'What would you call this thing?' Someone responded, 'Seussville'. 'Well', he said, 'it's too late in my life for this'. Then he turned to me and asked, 'Do you want to be mayor of Seussville? That's something for you to look forward to'.[7]

In other words, as the culture industry changed, so did Dr Seuss.

Whatever one may think of it, Seuss is but part of a trend: Curious George appears in advertisements for Altoids (in the ad, the phrase 'The Curiously Strong Mints' puns on George's name), Warner Brothers has licensed a variety of schlock bearing Harry Potter's name and Winnie the Pooh sells his own brand of cereal, 'Hunny B's'. As Gary Cross' *Kids' Stuff: Toys and the Changing World of American Childhood* (1997) and Stephen Kline's *Out of the Garden: Toys, TV, and Children's Culture in the Age of Marketing* (1993) point out, characters from children's books are routinely transformed into corporate pitchmen. In his *Creating Ever-Cool: A Marketer's Guide to a Kid's Heart* (1998), marketer Gene Del Vecchio reports that American children 'spend about $11 billion in such categories as snacks, sweets, toys / games and clothing [. . .]. And beyond their own income, children also influence the purchase of more than $160 billion in *family* goods and services. And there is no abatement in sight as some estimate that kid wealth has been growing at a rate of 20 percent a year' (Del Vecchio, 1998: 20). Children are a huge market; so, from a businessperson's perspective, it could make sense to use Dr Seuss to reach that market, generating profits for companies and the estate. Children's books are big business, and it is impossible to pretend otherwise. As Jack Zipes explains in his *Sticks and Stones: The Troublesome Success of Children's Literature from Slovenly Peter to Harry Potter*, even the children's book publishing business has grown more interested in creating marketable products than in nurturing good-quality books (Zipes, 2001: 51–2, 59). If, as he contends, the industry itself now caters more towards blockbuster books, then we can hardly be surprised at the increasing use of characters to sell products.

According to the US Trademark and Patent Office, Dr Seuss Enterprises has filed trademarks for 'Seuss Wear', 'Hop on Pop Ice Cream Shop', 'Gertrude McFuzz' Fine Feathered Finery', 'Circus Mcgurkus Cafe Stoo-Pendous', 'Sylvester McMonkey McBean's Very Unusual Driving Machines' and even the 'Once-Ler's House'. Dr Seuss Enterprises has also sought trademarks on many use characters for use in merchandise. For example, it applied for a trademark (serial number 75613066) to use the Lorax in connection with over 100 goods and services, including: trading cards, iron-on transfers, paper placemats, envelopes, gloves, sweaters, plush toys, bowling balls, bath toys, toy wagons, 'decorative pencil top ornaments', 'stand alone video output game machines' and 'tutorials and seminars in the field of literacy'. This range of products may seem ironic, given that Seuss's Lorax specifically argues against consumption for its own sake. However, it would not be fair to say that Dr Seuss Enterprises is merely heeding the counsel of a marketing expert, trying to sell spin-offs to as many children as possible. As Herb Cheyette explains:

> Under the rules of the trademark office, trademark applications can be narrowed, but not expanded. Therefore, it is customary practice for trademark lawyers to originally file for the widest possible scope with the understanding that the application will be reductively amended when

> the client finalizes plans. Most of these trademark applications were filed at the behest of Universal while it determined its merchandising plans for the *How the Grinch Stole Christmas* motion picture.
>
> (Cheyette, 2003)

In addition to it being standard practice for trademark lawyers to file for 'the widest possible scope' and then to amend that scope later, a second but equally important consideration is that trademark law must constantly be used to remain enforceable. As Gaines tells us, 'American trademark law gives an emphasis to "use" that it doesn't have in other countries, where, for instance, it is not necessary to demonstrate "use" [. . .] *before* registering a mark. Whereas in other countries, first registration guarantees the monopoly [. . .], in the US "use" stakes out the owner's claim' (Gaines, 1991: 223). In other words, Dr Seuss Enterprises not only need apply for licenses that cover a much broader range of products than it plans to license, but also must license *some* merchandise in order to protect the legal rights of Dr Seuss.

Tellingly, many of the trademarks for which Dr Seuss Enterprises have applied appear to be motivated primarily by legal concerns. For example, that it has applied for a trademark on the word 'Nerd' (which first appears in *If I Ran the Zoo*) suggests that these trademark applications may be more of a pre-emptive strike than a marketing plan. That is, would many people wear 'clothing articles and apparel, namely T-shirts, tops, made of all processes including knits and wovens, in all infant, children's and adult sizes' if these items bore the trademarked 'Nerd'? Given the negative connotations of the word 'nerd', one suspects that Nerd T-shirts might be a hard sell. In addition to following the standard procedure of applying for the widest possible range of products, this trademark application can prevent others from capitalizing on 'Nerd'. Considering Seuss's willingness to seek legal protections in the marketplace (as evidenced by the post-1968 marketing bonanza), Dr Seuss Enterprises is not intentionally contradicting Ted Geisel's wishes. In light of trademark law's strength, the Disneyfication of Dr Seuss must be seen as a symptom of a legal system designed to benefit capitalism more than moral or artistic values. If the close relationship between commerce and law begat Dr Seuss's Disneyfication, then the USA might consider adopting the Berne Convention, thereby strengthening copyright law and removing the need for artists or their heirs to seek protection under trademark law. The USA signed the Berne Convention in 1988, but did so in a way that exempts itself from upholding it: as the chair of the Republican Policy Committee wrote at the time, 'Its provisions are not directly enforceable in US Courts; instead, the private rights granted by the Convention exist only to the extent provided by US Law' (Updike, 2001). If Dr Seuss Enterprises has to sell lesser versions of Dr Seuss's work in order to strengthen that work's legal standing, then there's something wrong with the system – and perhaps enforcing the Berne Convention would help fix that system. Although I understand the

legal reasons for pursuing so many trademarks, it is truly staggering to see such range of items. On the day I used the Trademark and Patent Office's Trademark Electronic Search System (TESS) to search for 'Seuss' trademarks, I found 162, of which 71 were 'live' (i.e. currently active). On that same day (26 March 2002), I found only 17 for 'Harry Potter', 16 of which were active.

While American trademark law requires licensing agreements in order to be enforceable, one nonetheless wonders what H. A. and Margret Ray would think of the Altoid advertisements, or what A. A. Milne would think of 'Hunny B's' cereal. 'Mickey Mouse' is a synonym for mediocrity and, to prevent 'Dr Seuss' from becoming a synonym for mediocrity, we need to grow wary of what we are being sold. If a consumer knows the difference between the original and the spin-off, then she will know which one to buy. If a reader learns to examine closely any 'Dr Seuss' book with a copyright date after 1991, then he will not mistake the 'Wubbulous' for the real thing. And, if US copyright law were to enforce the provisions of the Berne Convention, then Dr Seuss Enterprises would not have to license Seuss spin-offs in order to gain the stronger protections provided only under trademark law. Otherwise, under these marketing plans, the iconoclastic Seuss risks being overpowered by the marketing-icon Seuss – faithful to profit, one hundred percent.

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Notes

1 Though he never addressed this question (to my knowledge), Seuss was once asked whether toys – then under development – based on his characters would be antithetical to the message of *The Grinch*, given that these toys would be sold during Christmas. Seuss replied, 'I see no dualism in purpose. These are not strictly Christmas toys. They will be sold throughout the whole year' (Corwin, 1983).

2 I develop this point at greater length in 'Dada Knows Best: Growing Up Surreal with Dr Seuss', the second chapter in *The Avant-Garde and American Postmodernity: Small Incisive Shocks* (Nel, 2002), and in '"Said a Bird in the Midst of a Blitz . . .": How World War II Created Dr Seuss' (Nel, 2001).

3 John O'Brien's 'How The Schnook Stole "How the Grinch Stole Christmas"'

(2000), a verse criticism of the film, casts the movie's producers as 'the Schnook' and excoriates them for (as O'Brien sees it) violating the principles of the book. Foreseeing movie versions of other Seuss books supplanting the originals, O'Brien imagines the Schnook saying: 'Don't worry, don't fret, don't look so perplexed – / Just wait 'til you see what's coming up next! / Some sneetches will form a star-bellied Aryan nation / While the Lorax is promoting massive deforestation. / The Butter Battle Book's adapted to start a big war – / Just give us some time, and we'll come up with more!' O'Brien's speaker continues: 'And so, one by one, our illusions are shattered, / Were we naive to believe that the Doctor still mattered?' In a version of the song, 'You're a Mean One, Mr Grinch', O'Brien writes: 'You infuriate me, greedy Schnook / You're an unrepentant crook / You've grasped all you could grasp / And you took all you could took / Greedy Schnook! / I've got just one thing to say to you and I'll say it right now / "Give . . . back . . . the . . . book!"'

4 Both Herb Cheyette and Karl ZoBell concur that Seuss's business ethic would include marketing plans such as these. Cheyette says that the

> implication [. . .] that merchandising and commercialization in all its forms were contrary to Ted's philosophy and offensive to his business ethic [. . .] is simply bunk. [. . .] Dr Seuss Enterprises has engaged in no activity that Ted did not also engage in. Ted knew the way of the world and was not about to deprive himself of a desirable opportunity for reasons of commercial disdain. The key question, of course, is what was a desirable opportunity? The Christmas commercial of my anecdote was not desirable. A motion picture was, and so was a theme park.
>
> (Cheyette, 2003)

ZoBell adds

> I performed legal services for Ted for over 30 years, and was probably his only lawyer for the last 10 or 15 years of his life. Ted also entrusted me to serve as co-executor of his will, and as co-trustee of his trusts. We spent a great deal of time discussing difficult legal matters, business matters, and personal matters, and I found him to be a highly sophisticated person with an acute mind, and a healthy interest in making sound economic decisions. He was, indeed, exceptionally generous with local and national philanthropies, and he did not call his generosity to public attention. He was also keenly aware that generosity (as well as maintaining the lifestyle that he enjoyed) required that he look after his business interests, and protect, preserve and enhance the assets he had created. I am wholly convinced that none of the business decisions which have been made by Dr Seuss Enterprises since his death are inconsistent in kind from decisions he made during his life time, and/or expected and projected to be taken following his death.
>
> (ZoBell, 2003)

5 In response to these criticisms, Herb Cheyette writes:

> With regard to *The Wubbulous World of Dr Seuss*, Jim Henson and Ted admired each other. Jim died three weeks before a scheduled meeting with Ted to discuss possible television projects. When Brian Henson, Jim's son, indicated renewed interest on the part of the Muppeteers, Dr Seuss Enterprises was receptive, especially since the creative head of the project was Michael Frith, a former associate and collaborator of Ted's at Beginner Books. The affinity was so close, Michael even looked like Ted. Sorry that the completed programs didn't also resemble Ted's work to your satisfaction.
>
> (Cheyette, 2003)

6 Cheyette also notes that Seuss 'had completed four drafts of the film script before he died'. As for the movie's current status, '[s]even scripts later, this film project is now at Universal' (Cheyette, 2003).

7 Cheyette adds, 'When the opportunity for a Seuss theme park re-presented itself after Ted's death, Audrey, who was present at the previous meeting, welcomed the possibility. Dr Seuss landing is a work of art. It is tasteful, brilliantly executed and Ted would be proud to have inspired it. It is a lasting addition to Ted's legacy' (Cheyette, 2003).

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