

Celestial copyright case comes down to creativity

The cosmic question for the 9th U.S. Circuit Court of Appeals was whether the Urantia Foundation had a valid copyright on a book it says was "authored by celestial beings." *Urantia Foundation v. Maaherra*, 1997 U.S. App. LEXIS 13601.

"The copyright laws, of course, do not expressly require 'human' authorship," Judge Mary M. Schroeder explained, "and considerable controversy has arisen in recent years over the copyrightability of computer-generated works. See Arthur R. Miller, 'Copyright Protection for Computer Programs, Databases, and Computer-Generated Works: Is Anything New Since CONTU?' 106 Harv. L.Rev. 977 (1993)."

The foundation claims Kristen Maaherra infringed its renewed copyright on the Book of Urantia. Maaherra admitted distributing the book on computer disk, so the only question on appeal was whether the foundation had a valid copyright.

The District Court ruled the foundation's renewal copyright was invalid, and the foundation appealed.

The first question on appeal was whether the Book could be copyrighted in the first place.

"Both parties believe that the words in the Book were 'authored' by non-human spiritual beings described in terms such as the Divine Counselor, the Chief of the Corps of Superuniverse Personalities and the Chief of the Archangels of Nebadon," Schroeder explained.

"These spiritual entities are thought to have delivered the teachings, which were eventually assembled in the Book, 'through' a patient of a Chicago psychiatrist, Dr. Sadler.

"The parties also agree that to understand these divine messages better and to share them with the rest of the world, Dr. Sadler formed a group of five or six followers, called the Contact Commission.

"At first, the members of the Contact Commission started discussing the divine teachings among themselves. Then, apparently in response to what they perceived to be prompting from the spiritual beings, and in collaboration with a larger group of followers called the Forum, the Contact Commission began to pose specific questions to the spiritual beings.

"The answers to these questions, as transmitted to the humans and arranged by them, became the Urantia Papers.

"Members of the Contact Commission, including founding member Dr. Sadler, then formed the Urantia Foundation, an Illinois charitable trust, for one purpose: to preserve and disseminate the teachings contained in the [Urantia] Papers.

"The foundation published the book in 1955. The original copyright certificate was issued to the foundation in 1956. The foundation renewed the copyright in 1983."

As Schroeder explained, "To qualify for copyright protection, a work must be original to the author.

"Original, as the term is used in copyright, means only that the work was independently created by the author (as opposed to copied from other works), and that it possesses at least some minimal degree of creativity."



Decisions of Note

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So, Schroeder continued, it is not creations of "divine beings that the copyright laws were intended to protect, some element of human creativity must have occurred in order for the book to be copyrightable.

"At the very least, for a worldly entity to be guilty of infringing a copyright, that entity must have copied something created by another worldly entity."

Consequently, Schroeder explained, "The copyrightability issue is not a metaphysical one requiring the courts to determine whether or not the book had celestial origins. For copyright purposes, a work is copyrightable if copyrightability is claimed by the first human beings who compiled, selected, coordinated and arranged the Urantia teachings 'in such a way that the resulting work as a whole constitutes an original work of authorship.' 17 U.S.C. §101.

"In this case, the Contact Commission may have received some guidance from celestial beings when the commission posed the questions, but the members of the Contact Commission chose and formulated the specific questions asked. These questions materially contributed to the structure of the [Urantia] Papers, to the arrangement of the revelations in each paper, and to the organization and order in which the papers followed one another.

"[T]he human selection and arrangement of the revelations in this case could not have been so mechanical or routine as to require no creativity whatsoever. ... [T]herefore, the 'extremely low' threshold level of creativity required for copyright protection has been met in this case. ...

"[N]otwithstanding the Urantia Book's claimed non-human origin, the papers in the form in which they were originally organized and compiled by the members of the Contact Commission were at least partially the product of human creativity. Therefore, the papers were works amenable to common-law copyright protection."

Although the District Court ruled the copyright renewal was invalid, the appeals court disagreed.

With assistance from mere circuit judges, the Urantia Foundation has a valid copyright on messages from the Divine Counselor, the Chief of the Corps of Superuniverse Personalities and the Chief of the Archangels of Nebadon.