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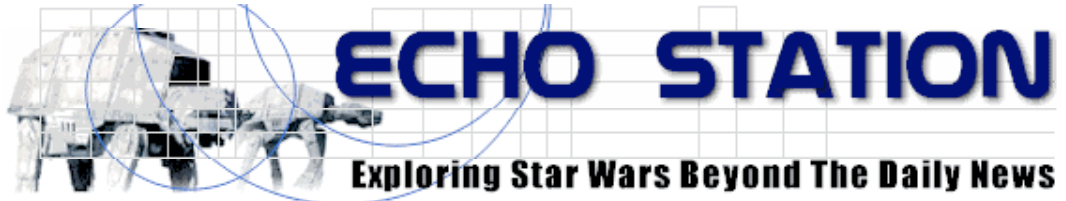
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fans.starwars.com

Editorial by [Elizabeth Durack](#)
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Starwars.com's new Fan Homepages offer sounds good on the surface, but it may be a dangerous bid to wrest intellectual property rights on "derivative works" away from fans.

I was stunned and shocked to learn that [Starwars.com](#) will now be offering fans web space under the subdomain [fan.starwars.com](#). It's stunning because for perhaps the first time a major creative media company is offering its fans space on the web (a LOT of space -- 16 megabytes per account, and unlimited accounts per user are allowed) and an official URL ([fan.starwars.com](#)) plus dynamic content from their own official site. It's shocking because once you accept their enticing offer they can tell you exactly what you can and cannot do on your website. Furthermore they *own* your content -- they'd rather you didn't create Star Wars-related graphics, wallpapers, fan art, fan fiction and so forth, but if you do, it belongs to *them* in perpetuity, under the [terms of service](#). "To encourage the on-going excitement, creativity and interaction of our dedicated fans in the online *Star Wars* community, Lucas Online is pleased to offer for the first time an official home for fans to celebrate their love of *Star Wars* on the world wide web," enthuses the Official Site's [main page](#). The service is being managed by [Homestead](#), a company that offers free homepages directly and also enables sites like Starwars.com to offer such services. But the real story is a lot uglier, and has much less to do with the encouragement of creativity than its discouragement -- there's nothing innocent about Lucasfilm's offer of web space to fans.

I think sometimes that in some ways media companies like [Lucasfilm](#) wish their fans wouldn't care so much. The outpouring of love and fierce devotion from online fans threatens to corrode their trademarks and infringe their copyrights. There is a threat, which exists primarily in their lawyers' heads, that the thousands of websites that refer to those trademarks will dilute them. In reality, most (including most at Lucasfilm) agree that the proliferation of fan activity enhances the popularity and marketability of the Star Wars franchise -- especially because the sort of true, deeply-engaged fans who create and visit fan websites are prime consumers of Star Wars merchandise. But there is a more real threat that if Lucasfilm does not defend their ownership of their trademarks, they stand to lose them to the public domain.

That's where this new web space thing starts making a lot of sense. If they can get a sizeable number of online fans to sign on (lured by what is, on the surface, one of the most attractive offers of free web space I've ever seen), they can ensure that those people all more or less follow Lucasfilm's [rules](#) for how they would like fans to use their trademarked and copyrighted properties. Makes their task of policing the web that much easier.

The web has been a heck of a [hassle](#) for them, as fans cheerfully (and for the most part, innocently) trample all over their precious copyrights and trademarks, and it's bad PR every time they send nasty-grams to webmasters, as they do with some frequency. How much easier would life be for Lucasfilm's licensing folks if all they had to do to shut down an infringing website was pull the plug, without even having to explain? Lots. That's the genius of Lucasfilm's offering fans web space -- it lets them both look amazingly generous *and* be even more controlling than before (Free house in prestigious neighborhood! But after you move in, they tell you what you can and can't do in it and they own all your stuff -- and can kick you out without notice). Except that most fans are going to see through their fairly transparent ploy, as I did.

Lucasfilm doesn't hate fans, and they don't hate fan websites. They can indeed see how they benefit from the free publicity they represent -- and who doesn't like being adored? This move underscores that as much as anything. But they're also scared, and that makes them hurt the people who love them.

The trouble is that perhaps the fans have a moral right to use Star Wars-related names and creative concepts at will because Star Wars is such a deeply ingrained part of our culture. The very success and ubiquity of the franchise is what makes it hover (dangerously?) close to the border of being something no longer privately-owned, but public cultural property. It has been observed by many writers that Star Wars (based purposely on the recurring themes of mythology by creator George Lucas) and other popular media creations take the place in modern America that culture myths like those of the Greeks or Native Americans did for earlier peoples. Holding modern myths hostage by way of corporate legal wrangling seems somehow contrary to nature.

Don't get me wrong, I respect George Lucas and his creation, and his legal right to all he produces, despite the dilemma. As some fan is always bound to point out whenever there's kvetching about Lucas and his deeds, without George there would be no Star Wars. He personally built this remarkable empire and has remained the central creative and administrative figure. He funds his own movies. What other movie franchise revolves so pivotally around one man's influence? He is the myth-builder.



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But it's bigger than George, and too-strong loyalties to him may be misplaced. My first loyalty as a fan is to other fans.

Lucas has a legal monopoly on the commodity that Star Wars has unwittingly become, and there is inevitable tension with all those who wish to not only consume his product but to create and offer their own via fan websites, fanfic, fan art -- you name it. This is not, in their minds, primarily a financial matter (few fans have any contention with Lucasfilm's exclusive right to say who may create Star Wars materials *and profit* therefrom). It's a creative one. George Lucas will always have sole financial rights to profit from his Star Wars. But what of others' Star Wars-es? What of the tens of thousands of pieces of Star Wars fanfic which constitute auxilliary myths to complement George's central one? I believe that in all fairness, they should have the right to share their "product" with the world -- yes, even if it competes with George's (which fanfic does only marginally, if at all).

The Star Wars Fan Homepages [terms of service](#) explicitly deny fans these rights. "The creation of derivative works based on or derived from the Star Wars Properties, including, but not limited to, products, services, fonts, icons, link buttons, wallpaper, desktop themes, on-line postcards and greeting cards and unlicensed merchandise (whether sold, bartered or given away) is expressly prohibited. If despite these Terms of Service you do create any derivative works based on or derived from the Star Wars Properties, such derivative works shall be deemed and shall remain the property of Lucasfilm Ltd. in perpetuity." They don't specify fan fiction (they would be fools to; every fanfic enthusiast on the web would see red) but it clearly falls under the category of "derivative works based on or derived from the Star Wars Properties." And users of the service "hereby grant to us the right to exercise all intellectual property rights, in any media now known or not currently known, with respect to any content you place on your Homestead-powered Web site."

To be fair, this last clause is present in Homestead's [generic terms of service](#) as well (and, if you read the fine print, those of many web hosts, for better or worse). The important (and insidious) distinction is that in this case Lucasfilm, which has a stake in the specific ways in which its properties are used, also shares that right to users' intellectual property. And also to be fair, Lucasfilm probably has little inclination at this time to regulate the creation of fanfic or fan art, whether or not it is within their legal rights to do so (whether fan fiction is copyright infringement or protected speech under the First Amendment is an unresolved gray area). But we probably shouldn't be willing to sacrifice our rights to less-venerable forms of creative expression, like those named in the above-quoted portion of the terms of service, either. And in any case, if you publish your fiction or art or Star Wars-themed link buttons on a fan.starwars.com website, they explicitly and legally belong to Lucasfilm. As an author and artist, and as a fanfic and art archivist and webmistress, I have a problem with that.

Consider the ethical implications of moving one's fan fiction or art archive to fan.starwars.com. I have little doubt that someone (probably multiple someones) will do this. An offer of quality, unlimited web space is enough to make most archivists salivate -- a fanfic archivists' support [mailing list](#) I'm on proves this time and again. But if I moved my fan fiction archive onto their server, I'd be *giving* Lucasfilm legal rights to the work of all the authors who had entrusted their stories to me. I want to beg archivists not to move their archives to fan.starwars.com without explicit permission from *each and every author or artist* represented on their site. You owe it to them to protect their rights if they wish to reserve them.

True fandom is rarely passive -- it can be intensely participatory. Far from being mere consumers of media, fans themselves can gain fame and respect for their activities. They too can be builders. They can possess that which they worship, and alter it to suit their concept of what it should be. In participatory fandom, there are no golden calves, only live ones -- trainable, dynamic, mortal. Fans critique media mercilessly, write their own stories, create their own art, play their own games, build their own communities. They excise that which they dislike (see the [Qui-Gon Jinn Council of Denial](#), which refuses to acknowledge that character's death), they insert new major characters (see any of dozens or hundreds of stories with a "Qui-Gon's first Padawan" character, almost always female), they add character traits (see the [Master Apprentice](#) fanfic archive, with well over a thousand stories about Qui-Gon and Obi-Wan as gay lovers), they cast themselves in the story (see "Mary Sue" fanfic), and they play with the basic rules in novel ways to create "alternate universe" works (see the [Sith Academy](#)). Fanfic authors are infinitely creative in finding new ways to twist and change the worlds they work in. They become the authors of new yet very familiar worlds.

And they must fight to preserve that right, or at the very least not cave in to the seductions of those who would regulate it. Because there's really no saying when the seduction could turn into rape.

My own site, [The Qui-Gon Jinn Discussion List](#), will not link to any fan site hosted on fan.starwars.com, and I invite other fan sites to embrace a similar policy. This is not to punish fans who chose to host their sites there, but because I believe the fact of being there would inevitably limit the content of such sites, and because I believe allowing outside forces to control content injures fandom in general. I will continue to link to the Official Site, Starwars.com. I invite Lucas Online to, in the spirit of fairness and goodwill, revoke all legal and moral claims to the intellectual property of fans whose sites are or will be hosted on fan.starwars.com, including so-called "derivative works."

Links

[www.miscellanies.net](#) - Elizabeth's new site which houses all of the latest news and information on this topic.

[Starwars.com](#) - Official Site. [Copyright page](#)

[Star Wars Fan Homepages terms of service](#) - The legal "fine print" which applies to all sites hosted under the fan.starwars.com subdomain. [FAQ](#)

[Homepages contest](#) - Everyone who creates a site at fan.starwars.com is entered to win a variety of Star Wars prizes.

[Homestead](#) - The company providing Starwars.com with "free homepage" services. [Their generic terms of service](#)

[It's not wise to upset a Wookiee](#) - [Echostation.com](#)'s fabulous, well-researched article on Lucasfilm vs. fan sites. A must-read.

[Trademark Wars on the Web](#) - "Meant to be an extensive, if not comprehensive, list of sites that have gotten slammed in one way or another for trademark concerns."

[The Force is With Them](#) - [IP Magazine](#) article about Lucasfilm's efforts to protect its properties online. A revealing look at their side of the story.

[The Poachers and the Stormtroopers](#) - A wonderful 1988 article on Lucasfilm and other media companies vs. fanfic authors.

[Fan Fiction on the Line](#) - An older (undated, probably circa 1995) Janelle Brown HotWired article summarizing the dispute over whether fanfic, "Lucasfilm is one particularly reasonable outfit when it comes to fan fiction."

["Scotty, Beam Down the Lawyers!"](#) - A 1997 Wired Online article about fan fiction vs trademark law... "By allowing free-speech principles to dominate the Neutral Zone that links pop culture and commerce, media titans will still make plenty of money, and our universe will be a more hospitable place for creative exploration."

[The Law of Cyberspace for Non-Lawyers](#) - A summary of the major issues involved in Internet law.

[The Freedom Forum Online](#) - First Amendment group/zine.

[Echo Station Outposts](#) - build your own free webpages, courtesy of Echo Station...with none of the nonsense you're reading about here.

(Elizabeth has an AV tech job which enables her to websurf all day. Her life really revolves around her fan activities, her online friends, and her pet mynock. She is about a semester away from an English degree but can't think of any reason to finish, and suspects she might like to be a writer, web designer, and/or hermit-naturalist some day, or else cultivate her fantasy life to such an extent that she can live entirely in her head.)

You can read one fan's rebuttal to this article by [clicking here](#).

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