The Pop Police:
Issues of Creative Freedom and Cultural Stifling
in Japanese Subcultures

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Introduction

This paper will look at several recent examples of creative activity within subculture communities, facilitated through the now-indispensable role of the internet in these realms not only as a resource for knowledge, but as a mediator for complex networking of individuals with diverse talents, yet common goals and interests. Through this analysis in trends concerning differing types of subcultures, the study will critique the methods by which these particular fan groups appear to have their own moral standards in terms of what behaviour is acceptable when dealing with copyrighted material, and what is not. In contrast, we will then look at how the mass media appears to still be struggling to adapt to the ever-changing scene of online interactivity in its reporting in order to simplify the picture for mainstream audiences, by seemingly ignoring this gray area altogether. In addition, we will attempt to see if these online communities are, perhaps unintentionally, the modern manifestation of a return to folk traditions in (virtual) close-knit communities. Lastly, we will then consider the implications for cultural enrichment through creative activities as a whole, and how overt control over copyrighted material by intellectual property owners and crackdowns on illegal usages of these elements may be stifling this usually healthy and natural development by criminalizing “folk” activities.
Intellectual property holders, evermore protective concerning the routes of distribution of their product, may perhaps be taking things too far and effectively creating more enemies of their supposed consumers/adulators. Since the issue of concern for them is solely the unauthorized spread of content, certain peculiarities of usage trends which have arisen through the recent ease of availability of new technologies for both production and peer networking are proving to be largely problematic to deal with in terms of "ownership". Worse, rather than these new trends being allowed to permeate into the mainstream culture in order to spread new and complex methods of creativity, they are being, by cases, ignored, muted, and in some instances, outright criminalized.

The aim here is not to champion a cause for illegal consumption of copyrighted material; rather, through this research, I hope to draw attention to finer details in these situations which may point to a gradual restructuring in the very makeup of our society, a transformation which is still underway and only just beginning to become visible, but which we ought to be prepared for, including the copyright industry legislators.

Unmasked Riders

On January 19th, 2011, news broke out that two action figure customizers from Niigata had been arrested the previous day.

The culprits had sold a modified toy, for which bidding ended at the astronomical sum of 269,001 yen. The original un-modified action figure came from a pre-packaged set of two, sold legally in stores as "S.I.C. Vol. 41: Kamen Rider X & Apollo Geist," which together retailed for around 5,000 yen. The character they represented after the customization was called "Utopia Dopant", who appears in the Kamen Rider W series and therefore is not an original creation by the customizers and considered an act of plagiarism by the copyright owners. The arrest was made on the grounds that the sellers did not seek a license to sell the figures from the IP holders before making the sale.
The source of information, The Yomiuri Shimbun, has since deleted the story from its website, but internet communities picked up the story immediately, and some blog posts condemned Toei for coming down hard on fans for their crime of apparently “loving a character too much”. The news has since gone viral and sparked online debates on public forums and opinion blogs around the world.

Some background is needed here to understand what type of subculture primarily deals in this hobby/customization trade.

*Kamen Rider* is a distinctly Japanese media property owned by Toei with a 40-year history, meaning that the series has spanned multiple generations of consumers and in some ways contributes to father-son bonding through enjoyment of common interests. Much like the *Sentai* hero TV shows, which are re-branded every year, the Kamen Rider series is mainstream children’s entertainment which adults feel pangs of nostalgia for, and in some cases in recent years this is capitalized upon by certain manufacturers specializing in high-end, realistic figures of the most popular characters.

In general, the *Kamen Rider* shows started out as a typical formulaic hero series, where the protagonist must fight hoards of evil monsters every week. However, since toy sales were every bit as important as the scriptwriting, eventually the producers of the show realized that monster figures did not sell as well as the hero figures. Thus, in order to maximize sales, they introduced the concept of different Kamen Riders, that is, many variations on the original, which the hero would fight with. This trend continues until today, with the original having spawned multiple iterations of the titular Rider, all with different personalities and abilities. Thus the toy range was and remains quite wide-ranging, and successful.

Some of these characters have particularly extravagant costume designs, which for a children’s toy that is supposed to be affordable, cannot always be replicated accurately (and so this is where the high-end collector’s market would normally come in).

The customizers who created incredibly precise representations of some of Toei’s *Kamen Rider* characters used standard action figures
which would retail for about 2,500 yen as a base. They then proceeded to modify each one to create several unique figures — ones which had until that point not been made into a retail product.

The debates which stemmed from this incident ranged from opinions bemoaning the irresponsibility of the customizers\(^3\) to anger at the IP holders, not only for their allegedly oppressive nature, but also for not appropriately taking advantage of the talent showcased before them (which commands a high price, and thus supposedly would translate into healthy potential sales should an official product made to the same standards be released):

"Instead of Bandai hiring these guys in designing their figures, they decided to arrest them just for selling one figure?! I mean, the practice of selling custom made figures has been around for years that even some manga artist are appreciative with the work fans made! Plus, they can use these guys help in making a good prototype of a SHF Shadow Moon figure!"
(http://ridersrangersandrambles.com/2011/01/20/3461)

In fact, similar debates ensued in parallel over on the Japanese 2-Channeru message board, giving a sense of the universality of some of the notions within the fan culture\(^4\). Criminalization of individuals who in the eyes of general society flaunt copyright laws, of course, is nothing new, but recent advances in online communication are allowing creative individuals, amateurs in their craft, to gather and form semi-professional unions, with an attached consumer base (often made up of peers), for the sole purpose of realizing (manufacturing), and reveling in, their product — with all of this inspired by a love of a certain pre-existing set of tools, be they intellectual property or physical hardware. The reality is that at the moment, there is little distinction between these particular actors and the mere thieves trying to capitalize on the hard work of others, which is a major problem for the entertainment industries.

One example in which this distinction is being made at the end-user
level, with consumers choosing — rather vocally, thanks to online forum discussion — whether or not to support particular groups of manufacturers, is the issue of the so-called “unofficial third-party” Transformers items, which since around 2005, have been proliferating amongst the collector community.

Takara-Tomy vs iGear and Fansproject,
Good copycats, bad copycats

After a dry spell during the 1990s, the Transformers brand of toys have enjoyed an interesting resurgence in popularity since the early 2000s, which culminated in the production of an ongoing Hollywood movie series, thus making it the most profitable toy-line for toymaker Hasbro in 2007. As an internationally-recognized brand with a strong following in Asia, the Transformers in recent years have seen their fair share of sidelined, unofficial products, which could be described as “bootlegs”. But as in the case when the term is used to describe illegal recordings of unique live performances of rock bands, instead of outright unauthorized duplication of a manufactured record to sell for profit (a “fake” edition), bootleg toys are not all necessarily “knock-offs”. A “knock-off” is often described to be an unauthorized, reverse-engineered re-molding of a certain official toy, sold illegally without license, usually of inferior quality due to corners cut in the tooling process, or cheaper materials, or other reasons. What we are concerned with here for the purposes of this paper are the activities of fan-produced items, which while undeniably “unofficial”, arguably fall into a grey area of sorts in terms of legitimacy in acceptance by the fandom rather than the absolute “wrong” intentions of obviously exploitative “knock-off” bootleggers, profiting off the uninformed, or the “cheap” (who may thus also find themselves incriminated by their peers).

A hardcore fan subculture such as Transformer fandom has many instances of debate surrounding unofficial items, so I will pick a few examples. The first instance of the phenomenon known as the “lunch time special” appeared in 2002. Simply put, these are fully-assembled,
perfectly-reproduced versions of official Transformer robot figures, with the only difference between them and an official toy being that they are molded in another colour of plastic, usually transparent or a translucent colour. That is not to say that official Hasbro or Takara-Tomy produced Transformer merchandise does not ever appear in colours other than the original — far from it, these companies maximize their product line output as well as profits by capitalizing on as many colour variations as possible per sculpt. What makes the so-called “lunchtime specials” so unique is simply that they are not licensed to be sold as official merchandise. Thus, they are rare variations which collectors clamor over, often sold for a premium. The phenomenon likely has its roots in the popularity of “test-shot” samples for in-house use, one of the final stages in toy production, where a production sample is molded/painted in odd colours which are not yet finalized, to test the materials and perform other checks, thus creating a unique figure. Online speculation would eventually conclude that, given the virtue of “uniqueness” as a powerful driver for collectability for many enthusiasts (and/or profiteers), it was only a matter of time before factory workers realized that they could stand to make an unofficial bonus if they quickly assembled a few extra units in a different colour and sold them on the black market to collectors of rarities. Understandably, this activity would have to be performed behind supervisors' backs, most likely during a lunch break, thus the term “lunchtime special” was coined. It has, however, yet to be verified that this is actually what was happening and it seems an unlikely situation, all things considered. The theory that these unreleased, translucent items are simply test-shot samples is much more plausible, though this does not change the fact that they are still unlicensed items not intended for retail.

As if acknowledging the popularity of this niche for transparent/translucent editions, Takara-Tomy has capitalized on the idea, legitimately producing them in intentionally low quantities so they can be sold as “web exclusives” or “magazine exclusives” in some promotional tie-up. Possibly the most (in)famous of these is the ubiquitous translucent variation of Starscream figures, a character from the cartoon who
dies and later appears as a ghost, possessing other characters. The character has had many toy interpretations (that is to say, many totally different toy designs have been given the name "Starscream") since the mid-1980s, and Takara-Tomy has, since the early 2000s, produced a limited exclusive "ghost" edition of virtually every one.

What all of this proves is that within the hobby enthusiast consumer groups there is always a niche market waiting to be tapped, and increasingly this has come to be exploited not only by the IP holders, but also by so-called "third-party" operators. Though the Transformers toy line remains for the most part the realm of children, the potential expenditure of older, nostalgic collectors has given rise to many sublines which cater to their needs and accordingly, the past decade has seen a steady rise in high-end officially-produced items, with the internet playing a key role (much like the case of the Kamen Rider brand). The "Masterpiece" series of Transformer toys feature complex engineering and are marketed to adults, plus further web-only exclusives in limited-edition colours or limited accessories maximize the revenue to Takara-Tomy per single release, which is priced upwards of 10,000 yen. The first of these was released in 2004. At around this time, the high-end adult collector market for robot toys had taken root thanks to a combination of McFarlane figures (featuring limited articulation but detailed sculpting) and Bandai's "Soul of Chogokin" toy line (a range of updated incarnations of 1970s Japanese robots, featuring heavy die-cast content like their namesake "Chogokin" toys from the same period). The following years saw increasingly more Japanese toy companies shift their focus towards this adult consumer market segment and, in a sort of evolution of the garage kit culture of the 1980s and 1990s, eventually fans themselves viewed their community as an opportunity to begin to produce their own items.

The "third-party" manufacturer "FansProject" was formed with a goal to realize the wishes of the Transformers fandom. Essentially, FansProject is a group of people who design and produce their own toys. However, these toys are all invariably based on intellectual property owned by Hasbro/Takara-Tomy. Their first items were seemingly
simple, yet expertly-crafted after-market accessories for existing figures released by Hasbro/Takara-Tomy, featuring gimmicks which pointed to well-researched and knowingly-executed production. The items proved to be popular enough to warrant approval of the group in fan circles, as well as indirectly helping to generate more sales revenue for Hasbro/Tomy-Takara due to their figures' sudden increase in popularity as subjects to which the FansProject peripherals could be added. Essentially, the aficionados had caused the FansProject-produced merchandise, despite its illegitimacy, to increase demand for the official product from Hasbro/Takara-Tomy. This pattern continued as FansProject’s endeavours became increasingly ambitious: their “City Commander” upgrade set, when combined with the official Optimus Prime figure from the 2006 Classics line, formed a larger robot which bore a striking similarity to the character Ultra Magnus, which had remained officially unproduced as part of that line, and thus had formed a void in the collections of fans.

While the two examples given here of the “lunchtime specials” and the FansProject items may share a common categorization — that being that they are unlicensed “bootlegs” — they nevertheless differ in one key area: the reception and acceptance of the end user. Now that most fan community interaction is performed online, there is integration not only of interests, but of technical knowledge concerning the expansion and development of those interests. The fans formulating their own ways to create new items to complete their collections is the next evolutionary step in convergence, which we can ascribe to folk culture tendencies coming into contact with market-force-dictated mass culture environments. According to Jenkins, “in a folk culture, there is no clear division between producers and consumers” (2006: 136) — a point illustrated rather on the nose by FansProject themselves, proclaiming as they do that they are “by fans, for fans”⁸. Here we see the first signs of certain subcultures gathering internationally, subconsciously vying to return to a society of generations past where mutually sharing, recreating and re-splicing folk customs and artifacts is the norm: a communal, multilateral method of “consumption” which pre-dates our current,
commercially-driven systems of production modeled on unilateral supply-and-demand standards. Of course, this is not a full return to those idyllic traditions, the irony of all of this is that these fan-driven enterprises are still being undertaken well within the confines of typical commercial strategies, with market research and consumer interest dictating the direction of the product development process.

So now we come to one more case — that of iGear, another third-party group which, like FansProject, also manufactures unofficial Transformers-related products. A certain backlash has been seen emanating from the fandom against this group, however, something which for the most part has not been seen in the case of FansProject. The reason for this is in the way the fans see iGear's business ethic.

iGear, like FansProject, is a business which targets the Transformer fandom — in particular that of the original 1980s generation who grew up with the first animated show and its characters — by manufacturing products which IP owners Hasbro and Takara-Tomy do not (i.e., certain characters from the original animated series have been under-represented in toy form officially, and this is where the third-party manufacturers step in). The difference is that while FansProject in its products will try to incorporate its own interpretation of a certain character or design (thus arguably avoiding plagiarism issues), iGear is content to recreate those designs fully, be they in producing a toy based on a character in the Transformers cartoon, comic series or other media, which had been hitherto neglected by Hasbro/Takara-Tomy, or outright taking a Hasbro/Takara-Tomy-produced toy design and tweaking it, releasing it as a different edition. For the former, fans can be more forgiving. They justify FansProject’s endeavors as mere improvements over certain items, since most of their output is in the form of accessories or add-ons (like weapons or armour) which require an officially licensed toy to attach to. The latter, however, is deemed by some as “lazy”, “rip-off” and “knock-off”.

Some inter-fan dialogue from “TFW 2005.com”, a large (unofficial) Transformers news message board, paints a rather vivid image of the online arguments that the situation regarding iGear’s “Faith Leader”
— a re-scaled, smaller (and, it should be noted, more brittle, according to some reports), yet otherwise direct copy of Takara-Tomy’s “Master-piece Convoy” — has spawned:

04-29-2010, 05:58 PM *ThundeR-CrackleR*:
“I really hope these guys gets sued for producing this knock-off. Seriously, how can they get away with this?”

To which *Fodorp4pbest* replied:
if that happened all us super fans that have specific needs and wants that hasbro wont fill would be out of luck, should we just have to go without? if so i hope you get sued for the obviuos:)

*ThundeR-CrackleR* then retorts with:
Excuse me? What iGear is doing here is illegal! They’re completly ripping off one of Hasbro and Takara’s figures!
Im not the one that’s going to get sued here, open your eyes.

Interestingly, *guard convoy* posted a very clear reason for the dichotomy of feelings of animosity towards some third-party manufacturers against praise for others:
 i support stuff that is original design, so i support things like fansproject, but i can not support anything that completely ripsoffs engineering from hasbro and takara, igear can make some good original stuff like the igear kup head, but then they do stuff like this

TFW 2005.com in April 2011 ran the headline: “Takara-Tomy bans third-party custom Transformers Products in Japan?” The discussion
which followed was centered on what may have been the specific items rumoured to have set the wheels in motion for this decision. Here is a quote from user Digilaut:

"It doesn't really take a genius they're [referring to iGear] blatantly ripping off the Masterpiece Starscream" mold, so I guess they're either reverse engineering parts by taking a Masterpiece Starscream and using the parts for new molds, or they somehow got hold of the digital blueprints for the mold (which seems unlikely to me).

In any case, people might disagree with me, but if there is one company that's really pushing its luck it's iGear. Their Kup head is really, really awesome, but most of their stuff, unlike some other 3rd party groups, is outright theft.

But I don't want to point the finger, I'm sure TakaraTomy is looking at this situation as a whole."

Later in the discussion, miscreant reveals an interesting fan perspective.

"...But Takara had five years to do the seekers, and instead pumped out a stream of MP Convoy repaints".

They have to protect their intellectual property...but the fanboy in me is more inclined to suggest they should just go &*%$ themselves."

And this attitude can be been in various other contexts, which we will go on to look at next. It is important firstly to be clear, however, on the distinction that fans/users make between the justifiable and the inexcusable in terms of those working outside the normal limits of usage of the items in question, as well as to be aware of how harsh sentiments end up being directed at the IP owners in either situation. As we have seen, some Transformers fans divert their anger towards Hasbro and Takara-Tomy for not producing items of sufficient quality and thus leaving the third-party manufacturers as the sole option for the
end-users, while similarly some have complained that Bandai's Kamen Rider figures are cheap, low-quality toys, infinite improvements upon which were made by the customizers who ended up in jail\textsuperscript{12}.

It is interesting to note that this situation shows yet another point which parallels uncannily with the issue of hackers of software.

**Sony owns your consoles:**

*Why you cannot have your cake/game and eat/play it*

The recent news of Sony's PlayStation Network having suffered a major cyber-attack in which hackers stole the private information (including credit card numbers) of 77,000 users with online accounts was widely broadcast in the mainstream media as one of the biggest cases of data theft in recent times\textsuperscript{13}. The affair perhaps worked to strengthen the general public's image of the hacker as an evil mastermind determined to bring down large corporations in a bid for power and control, reveling in the attention and illusions of self-grandeur brought about by their enviable skills.

An item which did not make the headlines, however, was a discovery perhaps of equal importance in terms of achievement for its scale of implications, though not as damaging to the general populace and/or user base (in fact, rather beneficial to perhaps all but the IP owner in question). That was the incredible discovery of Sony's code script for "signing" licensed software to allow their execution on official PlayStation Portable or PlayStation 3 consoles. This code — essentially a string of numbers known as the "Kirk keys" — is written by Sony into the data on all official game releases for the systems. Without it, the data is seen as unofficial, and since the system's operating software is designed to only run an application upon confirmation of this code, it will abort reading the program\textsuperscript{14}.

A little background may be necessary to fully comprehend the significance of this discovery.

Hackers have been around as long as computer systems have existed. Up until this point their focus on the PSP was mostly in
development of Custom Firmwares — basically alternate operating systems to the one that comes pre-installed with the consoles. The pre-installed Official Firmware versions, of course, contain a number of limitations for the user to ensure "proper" usage of the system. These are mostly anti-piracy precautions, such as the inability to access the data files within the game disc and copy it over to the (writable) Memory Stick. Doing so would make Sony's proprietary game disc format — the "UMD" — essentially nothing more secure than a Compact Disc is these days, which itself has seen giant losses in music sales as a format due to its ease of duplication using nothing more than standard PC software. The Custom Firmwares (CFWs) bypass these limitations and add a few extra features such as improved audio playback for a wider range of music formats than the official Firmwares. But essentially, running a CFW means the user is allowed to run games from the Memory Stick — perhaps copied from a disc or even downloaded from the internet — which they did not necessarily buy.

In order to curb the proliferation of CFWs, Sony has undertaken many actions, most of which have now developed into a predictable pattern of to and fro with the hackers. To very briefly summarize the usual chain of events, Sony releases a new updated Firmware every few months — often with new "attractive" features (basically, incentives), but usually mainly patching weaknesses in the previous codes which were exploited by hackers — and asks users of the consoles to download it. The official games released from that point on would then all require the highest Firmware version to run, so a user who had not installed the latest official firmware would not be able to play the new games, thus CFW is then negated as an option. However, the hackers always found some flaw in the coding of either the operating system or in some games themselves which would allow access to normally restricted areas of the console's hardware. These are called "exploits", and are like holes in security through which internal memory and other areas could be breached and exposed, thus allowing a multitude of activities, including re-writing game script, thus facilitating "cheats", and a myriad other acts of either creativity or mischief, depending on which
side of the "hacker" fence one stands on.

Though piracy may be the main reason why a typical user would want to install CFW, some users argue that there is justification for the efforts of the hackers developing them: the so-called "homebrew community" or "PSP homebrew scene". Developers of amateur programs, known as "devs" within the community, are writers of software applications designed for the PSP, viewing the console as if it were a PC or a Macintosh. Essentially, these activities prove that there is in the PSP hardware a legitimate platform for creative user-generated content, and paint a picture of a potentially much more versatile machine than simply a gaming platform. The homebrew software — all free to download and install on the PSP — developed by these "devs" range from simple games to complex multi-tasking applications, putting the machine almost on par with PDAs.

Sony itself has indicated it is very much aware that there is a distinction between pirates and homebrew developers, as seen in a BBC News article where Sony representatives and hackers were interviewed regarding this fine line:

"The problem experienced here is not with homebrew applications, but with hackers who pirate commercial titles," a Sony spokesperson said. "Piracy is illegal and we strongly oppose any acts which either aide or profit from it."

But the hackers say piracy is not what motivates their teams to unlock the PSP.

"My aim is to enable as many people as possible to run homebrew programs," said Fanjita, a member of the Noobz team.

He added: "Everyone has the right to do what they want with their own hardware. Piracy does upset me, and because what we are doing opens the way to piracy it's harder to justify it morally."
But our stance on piracy is clear, and we hope to be role models. Sony have never been in touch with me, so I am confident that what we are doing is legal."


What differs with the revelation of the “Kirk keys”, however, is that, essentially, the consoles had now become an “open format”, and previously essential (for people wanting to take full advantage of the system’s capabilities) Custom Firmwares were now mostly unnecessary to use unofficially-developed content.4

And so, again, an interesting division has arisen. Homebrew programs which are “signed” with the keys can then run on any official firmware on any type of PSP since the keys are universal. However, in order to run copied games (files usually encoded in “.iso” format) from the Memory Stick (or internal memory storage in the case of the newer PSPgo model), the game must be loaded using a “loader” application, which in turn requires access to a deeper root area known as the “kernel”. This area is still blocked to the user by the official firmware, regardless of signed software running or not. The division in question is therefore the clear distinction that, in a way, Sony has won, because the homebrew users got what they (said they) wanted: unlimited access to the PSP as a blank-slate hardware platform for creative programming, and yet piracy was still being prevented thanks to the still-active Official Firmware.

Of course, things are never that simple and the hackers have since continued their attempts to develop newer, better CFWs which will allow .iso files to be played. On the other hand, however, the homebrew community has been given a new lease of life due to these developments, and the situation has evolved into a healthily competitive and active environment, so much so that various forerunning members of the community have begun collaborating in organizing competitions with cash prizes on offer to the developers with the most impressive
homebrew application submissions. The first prize is USD $1,900, with second and third at $750 and $400 respectively. 

This friendly community spirit based on sharing is precisely what is being blocked from view of the general public in mass media, to avoid confusion and disobedience of the law. The term “hacker” is almost synonymous with “cyber-terrorist” in the press these days, whereas in reality there are different camps in existence.

On the other hand, many hackers and users support the criminalization of certain hacking attacks on corporations/organizations which can cause grief for other users/peers, all the while trying to clarify the distinction between the “good” and “bad” camps. On MSNBC, renowned hacker George Hotz was interviewed on the issue of the previously-mentioned PlayStation Network breach, drawing a clear line in the sand between the two camps of hackers:

If anyone “thinks I was involved in any way” with the current breach, Hotz said on his blog, “I’m not crazy, and would prefer to not have the FBI knocking on my door. Running homebrew and exploring security on your devices is cool, hacking into someone else’s server and stealing databases of user info is not cool. You make the hacking community look bad, even if it is aimed at douches like Sony.”

Thus, he distances himself from the “identity thief” type of hacker and is fully in the “freedom fighter” outfit. He also left a somewhat playful message for the perpetrator of the crime:

“You are clearly talented and will have plenty of money (or a jail sentence and bankruptcy) coming to you in the future. Don’t be a d... and sell people’s information. And I’d love to see a write-up on how it all went down. ...(Lord) knows we’ll never get that from Sony, noobs probably had the password set to ‘4’ or something.”

former-playstation-hacker-blames-sony-arrogance-for-breach, last accessed: June 24, 2011)

It appears that we are almost at a turning point where creative subcultures using a mixture of different tools may yet rise up against oppressive forces seeking unlimited control, but before that can happen something must occur to make these actors visible in the public eye (interviews on MSNBC notwithstanding).

Conclusion:
Effects of “virtual” formations of folk traditions versus “real” infringements

Jenkins illustrates folk culture as such: “...the story of American arts in the nineteenth century might be told in terms of mixing, matching and merging of folk traditions taken from various indigenous and immigrant populations. Cultural production occurred mostly on the grassroots level; creative skills were passed down mother to daughter, father to son” (2006:139). McLeod also feels that the current trends in our consumption of popular culture away from passivity and towards interactivity, or continual reconstruction of pre-existing cultural elements, are remnants of our community spirit, often using examples of blues and folk songs to illustrate his argument.

McLuhan’s theories on what he refers to as “artists” seem pertinent here, due to their prophetic status as masters of new emerging technologies which, in the wrong hands, can destroy society before the masses are even aware of the situation — a case all too close to reality for the victims of identity theft brought about by the PSN hackers:

“In the history of human culture there is no example of a conscious adjustment of the various factors of personal and social life to new extensions except in the puny and peripheral efforts of artists.” (McLuhan 1994: 64–65)

He goes on to add a point which appears to echo the importance of
anonymity in the internet age—that is to say, although the prominence of "handles" and alternate identities to distance the protagonists from their "real life" obligations may at first seem immature and irresponsible, it is precisely this distancing from the "limelight" that shifts the focus from the individual to his/her achievements, and ultimately seems altogether more noble than incriminating in many cases (for example in the aforementioned cases of the PSP homebrew "devs"):

“To reward and to make celebrities of artists can, also, be a way of ignoring their prophetic work, and preventing its timely use for survival. The artist is the man in any field, scientific or humanistic, who grasps the implications of his actions and of new knowledge in his own time. He is the man of integral awareness.” (1994: 65)

Shunning attention and adulation while providing free non-profit content designed for the sole benefit of the “community” goes as far against capitalism in ideology as one can imagine. However, social systems do not and ought never to define human culture, a transient, constantly evolving melting pot of interactivity and participation, exclusively formed by social animals. Yet it is the cumbersome rigidity with which authority and corporations seek to uphold these increasingly outdated standards and systems that still prevails, all towards the goal of high returns, and at the expense of a far more wide-reaching scope of diversity, expression, innovation, creativity and entrepreneurship, all staples of a healthy and rich culture. Thus, to the masses, these actors who operate outside the pre-determined path, using tools in their own way and promoting novel interpretations of set codes, must for now remain invisible, with corporations willing to lump them together with the real criminals, whose acts in contrast do end up front-paged and “news-flashed”.

Copyright laws, temporary rights once quite rightly accredited to innovators who deserved recognition for their contributions to the benefit of human culture and society, are now in the ironic position of being one of the main obstacles towards the proliferation of new forms
of creativity. Perhaps the real criminals are the ones committing the atrocity of stifling the creative powers of the few remaining active "reconstructionist" consumers, and expecting to perpetuate the myth of a cycle where content providers eternally feed "entertainment" to the waiting open mouths of the passive consumers.

This tug-of-war is nothing new, having been seen in several instances since the inception of the recordable cassette-tape deck, through to the VHS, and then with file-sharing service Napster. However, the rapid pace with which the so-called "end-users" (in reality, of course, more and more are reconstructing content and distributing it themselves, negating the "end-" prefix) are adapting to ever-evolving technology and sometimes outsmarting the providers themselves points to a revolution of sorts, if not a culmination of these sporadic battles into an all-out war engulfing the World Wide Web. The internet has always been the domain of young startups and it is still considered a final frontier for outlaws, of sorts. It seems almost as if the stage is set now for the final showdown between the coalition of traditionalist lawmakers together with the industry reps, and the "hackers" and "infringers" — the only problem is that the nature of the latter has not been clearly identified in the minds of the general public. A clear departure from the "Know Your Enemy" series of wartime propaganda films (where efforts were made to distort details and depict them as factual in an age where manipulation of mass media was key to rallying public support), in the current "Information Age", the irony is that the less information that proliferates into the public consciousness, the better off everybody is (in the sense of an absence of chaos), or so is the hope of the authoritarian side of the argument. This would not seem possible with the existence of treasure troves of knowledge ripe for consumption (and revision and further reconstitution) such as Wikipedia and Google, but their very richness itself is their downfall in this society of data affluence. Put simply, the ratio of time and effort against information acquisition has been knocked off scale by an immeasurable factor. Therefore, the ease with which data travels has increased to the point where we are swamped in it, resulting in a rift in learning and consumption
attitudes, illustrated by the rise of subcultures such as "hackers".

Perhaps Jenkins was right about "convergence" in the sense of the meshing of folk traditions, social infrastructure and technology, but in the wider sense of things insofar as human dependency on technology is concerned, the future appears to show a further divergence from any and all types of norms as we dive head-first into deep chasms of data, where knowledge is used, re-constructed then re-used, but amongst only those belonging to close-knit communities ("subculture" realms). As we zoom out of these domains, we perhaps see that these are but small pockets that turn out to be innumerable, vast as our information world network has become.

These days, we may all be connected, but the outcome of the latest skirmishes with authorities who aim to control the chaos of creativity will likely be a return to the small communities which feature so heavily in McLeod's and Jenkins's allegories of the propagation of folk songs and the like, except this time they will exist on the virtual plane. Looking at the many examples of internet forum dialogue we have seen, it is fair to say that they already do. This, however, may impede the development of progressive laws acknowledging the importance of reconstruction of cultural elements and how this stimulates cultural diversity, because the underpinning knowledge concerning this must be centralized within the general populace. Unfortunately, awareness of even simple concepts such as the public domain fly over the heads of many young people today since copyright law has by now been extended to such a long period of time to be considered eternally absolute in the eyes of those born twenty years ago.

The cultural stifling occurring around the world has hopes of being reversed by revisions of laws such as is happening in the UK currently, where archaic legislation is being updated to seem a little more adaptable to today's climate. As Japan continues to struggle with its implementation of cultural output initiatives such as the Ministry of Economy, Trade and Industry's Creative Industries division's "Cool Japan" policy towards the goal of economic recovery, it needs to realize that a fresh new attitude towards cultural creativity is needed to support the
policy, or else it is nothing but a meaningless exercise in cannibalism. Japan has the potential to be a world leader in creative contents, and it has shown on many occasions that it is attempting to covet that crown, yet there needs to be much more discourse between government and industry, as well as with the creators themselves, in order to dissolve the infighting and focus on the task at hand. Failure to do so can result (and in some cases, is resulting) in generations growing up unaware of past (yet recent) cultural achievements which ought to continue being exploited today. This is the true danger of the current status quo: young people are growing up unaware of how restrictive copyright law is increasingly becoming, and they are being raised in an environment where criminalization of misuse of copyrighted contents is absolute, with no explanation of the grey areas abundant in all of these cases where consumption and reconstruction of IP is concerned. As the real debates between "justified" and "offensive" (re-) uses of copyrighted material continue to spread throughout internet forums, we must be cautious of the fact that while this does seem at first glance to be healthy and welcome liberal discussion eventually leading to formations of community spirit within subculture societies, the "general public" is still somewhat being shielded away from these activities through the mass media. What we are now witnessing is a race building up to a power struggle between the wired community and the traditional news sources. The information age provides ample alternative sources of information and routes of communication, and, aside from the continuing hacking attacks, the use of applications such as Twitter in the rise of the "Arab Spring" protests as well as the vast exchange of data during and after the March 11 Tohoku disaster, 2011 has so far been a year where said power struggle appears ever-so-edging towards the user side.

Putnam explains that the rise in media affluence in the latter half of the 20th century, in particular television, was directly proportional to the decline in communal activities and thus was a cause for concern in terms of the welfare of our social activities, at least in the traditional sense of interaction between individuals, as seen in forms such as civic
participation, et cetera (2000: 246). However, if in fact, as subculture specialist Azuma suggests, new media in the post-TV era (evermore pressing now that terrestrial television broadcasts through analogue signals have only a few weeks to go until they are phased out at the time of this writing) such as internet forums is entirely dependent on multi-directional user interaction to function, rather than upholding the structure of a content provider-to-user unilateral relationship (2007: 143–152), then we may be witnessing a return to the community style environment (albeit, this time manifested in the virtual plane) which many lamented we had lost after the post-1950s technological revolutions which ultimately culminated in the 1990s and the arrival of the “information superhighway”.

Perhaps many still view the internet as a tool from which data can be easily researched and not much else, but with the advent of Facebook and Twitter, recent years have made clearly visible the natural human urge to interact, more often than not by breaking down elements in their surroundings and reformulating them into entirely new works. Though this should be a good thing on the whole, it remains to be seen how much longer current media powers can control the status quo and exert their influence on the general populace in order to continue to make enemies of certain “disobedient” groups and turn the mores of social consciousness against them, lumping them together with straight-up criminals.

Notes

1 Originally, the story could be found at: http://www.yomiuri.co.jp/e-japan/niigata/news/20110119-OYT8T00091.htm

2 A record of the details is kept here: Yahoo Auction Watch: http://yahooauctionwatch.livedoor.biz/archives/51700987.html, last accessed June 24, 2011

3 One comment on a blog referencing the story read “since both parties are supposed to be adults, I wished they had handled the whole matter better”. It goes on to provide a URL (http://www.toeihero.net/archive/rgl/hara_hara/02.html) for an article on the official “Toei Hero” website by product
development and license manager Satoshi Shinohara, outlining the steps amateur hobbyists ought to take in order to sell their own licensed items at events and such. http://mega80s.txt-nifty.com/meganikki/2011/01/post-f1fc-10.html (last accessed: June 23, 2011)
4 The relevant 2-Channeru thread is archived here: http://toki.2ch.net/test/read.cgi/moeplus/1295384358/, last accessed June 28, 2011
5 Hasbro announced that net income growth for 2007, the year of release of the live-action Transformers movie, was a record 44.7%, with sales of $3.8 billion. ("Hasbro profit rises 44.7% in third record year" — Providence Business News: http://www.pbn.com/Hasbro-profit-rises-447-brin-third-record-year,29691, last accessed June 28, 2011)
6 Roboplastic Apocalypse: "I've had the (lunch) time of my life": http://pleasesthesavemerobots.blogspot.com/2008/01/ive-had-lunchtime-of-my-life-or-words.html (last accessed June 24, 2011)
7 Strictly speaking, a toy bearing the name "Ultra Magnus" was in fact officially released as part of the 2006 toy-line. However, this was merely a white re-colouring of the mold originally used as the "Optimus Prime" toy for that year. The FansProject product represents the character much closer to his appearance in the 1980s cartoon series, in which he never appeared as a simple white robot. In any case, it should be noted that usage of the name "Ultra Magnus" by FansProject would increase the likelihood of incurring a legal wrangling, and so it is understood to the fans which character is being represented, even through vague designations as "City Commander".
8 "Fansproject is a group of fans who love to play, modify and design our dream toys. We have experienced [sic] in designing and manufacturing but not sales and marketing. We love to share our joy and happiness whenever we have some exciting ideas but we could never put these on the hands of general fans at our own power [sic]. Therefore, we can never tell if our designs will ever be produced and reach your hands." http://www.fansproject.com/?p=259, last accessed June 28, 2011
10 Takara-Tomy's figure, "Masterpiece Starscream", has been officially re-released many times and produced in various colours, often under different
names to denote different characters. However, some characters who in the 1980s animated series used the same basic design with colour changes and slight design variations have not — at the time of writing — been produced by Takara-Tomy. IGear has somehow managed to obtain the means to accurately manufacture the “Masterpiece Starscream” figure themselves, and implement cosmetic design changes to fully represent those “missing” characters, thus putting them in a controversial position concerning intellectual property laws as well as incurring (some) fans’ accusations of theft of another company’s product research and development. (http://www.tfw 2005.com/transformers-news/3rd-party-unlicensed-41/ige ar-sunstorm-and-current-rainmaker-unofficial-custom-masterpiece-seekers-172095/, last accessed June 20, 2011)

11 A reference to the aforementioned official “Masterpiece Convoy” figure, which, since 2003, has seen numerous (official) re-issues in a variety of colours and package variations (and accessories).

12 The Japanese language discussion on Yahoo Auction Watch that followed the arrest contained that and some other interesting reactions: http://ya ho auctionwatch.livedoor.biz/archives/51700987.html, last accessed June 28, 2011


14 A lawsuit case concerning the incident in which George Hotz, the hacker who first “discovered” the rootkeys for the PS 3 system allowing users to customize it (which led to another group uncovering the PSP’s “Kirk keys”), concluded in a settlement between Sony and Hotz, with many of the details remaining undisclosed. One argument which could be extrapolated from this result may be that laws are still not in place which would clearly define whether the data in question can “belong” to any entity. It can be supposed that Sony could not claim ownership to “a number”, thus the keys were not considered Sony’s IP in the eyes of current US law. Also, it should be noted that “hacking” mobile phones is legal, and Hotz’s argument was that Sony’s consoles were no different. C.f. the official PlayStation Blog: “Settlement in George Hotz case”, (http://blog.us.playsta tion.com/2011/04/11/settlement-in-george-hotz-case/?utm_source=twitter &utm_medium=social&utm_campaign=george_hotz_041111), last accessed June 28, 2011

11/01/02/encryptsign-anything-psp-homebrew-plugins-custom-firmwares/  
(last accessed: June 24, 2011)

(last accessed June 24, 2011)

17 “The folk-song tradition from which [singer-songwriter Woody] Guthrie emerged valued the open borrowing of lyrics and melodies; culture was meant to be freely created and re-created in a democratic, participatory way” (McLeod, 2005: 22).

18 It is worth pointing out that in the case (among many) of the PSP hackers, they acknowledge this explicitly by referring to their community as the "scene", as in the aforementioned "PSP hacking scene" or "homebrew scene". This awareness is notable for its overall amicable nature, in contrast to other, perhaps less so online groups.


20 Ironically, Japan is also home to the largest fanzine ("doujinshi") convention in the world, the Comic Market, which is full of amateur published works featuring unlicensed usages of copyrighted characters, and yet the manga industry, for the most part, turns a blind eye in terms of cease-and-desist strategies, rather, it observes it for talent scouting and trend tracking.

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