11 Swedish subtitling strike called off!

Fan-to-fan piracy, translation and the primacy of authorisation

Eva Hemmungs Wirtén

On February 27, 2010, 'Filippa', the administrator of the Swedish fansubbing site divXsveden ('dXs'), posted the following announcement:

The strike is called off!

As you are all aware of, some of our translators have been on strike for a while. This action has been carried out to protest against the changes that are made in the text files when they are posted on other subtitling sites. The translators on strike have now decided to call off the strike in the hope that their message has been received. We, who only want to watch movies with quality texts from dxs, are of course very grateful for this. DivXsveden is a small subtitling site. Because of this we should not really pose a threat to other subtitling sites. What makes us unique is that we only post texts produced by ourselves and of the very best quality. We therefore have a hard time understanding why we cannot be proud of our work by keeping our texts untouched. Now, however, the strike has been called off and we look forward to many new quality texts from DivXsveden. Welcome back all translators on strike. I have missed you, but understand and support you!!!

Striking fansubbers? There's something you don't see every day. In this chapter, I consider the events leading up to the strike and its aftermath, events described in the dXs forum as the result of a 'text war', in which the three competing sites dXs, Undersetter (UT) and SweSub, all were embroiled. The purpose of such a micro-historical approach is to query some of the implied norms produced in the fansubbing community in respect to the activity of translation, and particularly to consider the repercussions of having these norms challenged from within the community itself. Beyond providing an insight into the rationales of fansubbing, the web-walkout also illustrates the often convoluted and conflicting importance of creativity, ethics and norms involved in fandom more generally.

Two main aspects of the hostilities that ultimately ended in the web-walkout are highlighted. First, I take into account the rationales of what I call 'fan-to-fan' piracy, the conduct unbecoming that provoked the 2009 strike
Friends’ Luncheon

Sunday, May 5th

Reservations: 121-555-5555

Join us for a special evening at our annual spring fundraiser. Enjoy delicious cuisine, live entertainment, and the company of fellow friends and supporters. All proceeds benefit our community programs and initiatives. Don’t miss out on this wonderful opportunity to connect with others and make a difference in our community.

RSVP by April 15th

Dress Code: Semi-Formal

location: The Grand Ballroom

Directions: From downtown, take Main Street north for 2 miles. Turn left at the third intersection and follow for 1 mile. The Grand Ballroom is on the right.

Parking: Ample parking available on-site.

Ticket Price: $100 per person

Children under 12: Free (must be accompanied by an adult)

Craft Beer and Wine Tasting: Available upon arrival

Menu:

Appetizers:

- Antipasto Platter
- Grilled Shrimp Skewers

Main Course:

- Grilled Mediterranean Lamb
- Organic Roasted Vegetable Medley

Dessert:

- Seasonal Fruit Tart
- Chocolate Truffle Cake

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Join us for a night of goodwill and a chance to make a difference in our community. We look forward to seeing you there.

Sincerely,

Friends’ Luncheon Committee
professionalism and ethical credo which seeks (and finds) legitimation in the old-school textual universe of literary history and in an equally old-school visibility. The less high-tech, the better.

In 2009, Earl of Oxford was still on the barricades, however, and in his call to arms he targeted the infamous ‘Eu65’, founder of UT and archenemy to dXs and SweSub both:

UT has today only a very marginal production of own subtitles. Net-texts published on the website are to an overwhelming degree taken from SweSub and divxsweden.net (dXs). Despite that UT’s survival depends on texts from dXs and SweSub have Eu65 never given an inch of his arrogance towards translators and representatives of these websites. Eu65 and his lackeys make changes in the texts, take out original references and replace these so that it will look like UT produced them. [...] A couple of years ago the translators at dXs and SweSub tired of this bullying and initiated a common strike. The lack of new texts, combined with fears that advertising revenue would go down, made Eu65 back down. In the agreement that followed it was noted that UT would be entitled to publish the texts, only if texts and references would stay untouched.

Earl of Oxford remarked that this agreement has been breached regularly and that UT for a long time ‘honoured’ it by consistently changing references in texts originating from SweSub. Noting that many qualified translators now began to feel despondent, he concluded:

Having no other means at our disposal a number of translators from SweSub and dXs will limit the public’s access to newly produced texts. By doing so, we hope to stop these from reaching UT. This will continue until UT promises to respect the agreement that has been made. [...] We make no complicated demands. All we ask is the right to our own texts, that is, to have our texts unchanged. [...] We understand that this action will hit third party. Direct your anger accordingly. We’re not the ones that started the fuss. We’re not the ones who slowly suffocate the creative spark of the Swedish net-movement of amateur translators.

Twenty-two minutes later, the SweSub site began a thread entitled ‘Action against UT and Eu65’, leading off with Earl of Oxford’s posting. The thread eventually consisted of 642 postings, many of which were shouters of support in the vein of ‘Keep it up folks’ dotted with the familiar iconography of hearts and smilies.

Earl of Oxford focused renewed attention on a situation that the dXs and SweSub translators had struggled with for many years. Eugen Archy, the person behind the Eu65 nickname, was seen as the source of the trouble brewing in the fansubbing community since 2003. At that time, Archy launched www.magic-planet.net, a gaming website constituting the embryonic beginnings of what the dXs and SweSub communities in 2009 felt had escalated into rampant fan-to-fan piracy by UT. Archy was the mastermind behind UT ripping subtitles done by the dXs or SweSub subbers, then removing the translators’ names and posting them as if they were actually authored by UT.

In 2006, Archy landed the number 3 spot on the tabloid Expressen’s list of ‘15 hottest names in Media-Sweden’,13 but he was also the target for the first strike called by the dXs translators, this time announced in a collective posting entitled ‘Translatorsstrike’ signed on 23 March 2006.14 The arguments given by the dXs translators for their drastic action was the traitor behavior of Eu65, whose blatant stealing of dXs translators’ work, they argued, made them less and less motivated to produce the high-quality subs for which they were known. Three days later, the UT site administrator ‘homaNN’ posted ‘Decision regarding Strike!’ on the UT forum, where he stated that ‘[myself] & Eu65 have decided that from now on the site will work according to the earlier agreement with dXs. Translated by: ‘translator’ and source: address (divxsweden) will remain in all forthcoming subtitles originating from dXs.’ Just to be on the safe side, he ended with: ‘There is no use discussing [sic] this further in the forum, as it is a final decision.’15 That the March 2006 truce between UT and dXs/SweSub never really materialized is perhaps obvious from the fact that a strike was called again three years later. Speaking about the situation in 2009, SweSub’s ‘Incubator’, was less than impressed with Eu65’s track-record so far. ‘We hate him. We really do. He’s destroyed so much for so many people.16 The strike therefore worked as something of a ‘shaming’ action, once again attempting to disclose just how disloyal Eu65 has been to the informal norms established by the community. ‘Incubator’, who dedicates three–four working days in order to text a normal feature film, or SweSub devotes ‘Sigge McKrack’, who spends 15 hours a week on his subtitling,17 are typical examples of the devoted fansubber. Although there are a few women that take active part in the discussions, most of the fansubbers are male, and it is their submersion into fandom that produces the finely calibrated skills that in turn produces a superior translation. In his contribution to this volume, David Hesmondhalgh raises the issue of how to understand the notion of ‘good and bad work’, within the cultural industries today. Fansubbers develop the skill to distinguish between ‘good and bad work’ within their community as a way to determine the quality of good or bad translation. The Australian music writers that prefigure in Ramon Lobato and Lawson Fletcher’s contribution, publish in different fora, including those we traditionally associate with a larger public sphere. The Swedish fansubbers, however, remain within a highly specialised community that cannot expand too much, because if it did, it would no longer be a domain of fandom. While the rationales differ between these two groups, both develop tacit expertise that allow them to articulate and develop their views on what constitutes quality (or not) in their respective communities.

The self-image of dXs and SweSub fansubbers rests on an identity where they constantly repeat that they are motivated, not by money, but by passion
better to the thoughts of the author, where the author’s honour cannot but benefit from the freedom of translation given after a certain period of time. Advocating freedom of translation was the kind of stance that made Sweden a pariah in the nascent international copyright regime a century before the Pirate Bay. It might seem like a mere parenthesis in international copyright history, and yet up to the present time, freedom of translation would make regular and turbulent appearances in the global governance of copyright.

Why? Partly because translation was such an obvious element of international relations, partly because it called into question the nature and stability of the work. Of course, the question of how to define the boundaries of a work has long occupied scholars in literary studies, art history and other branches of the humanities, and it is also an ongoing problematic within copyright law and scholarship. Even the Swedish fansubbers, who regularly consider the legality or illegality of their activity, devote considerable time and energy to questions of this kind. One of the key issues debated by the dXs community during the 2006 strike was the nature of the work they produced. ‘Fjodor’ even cuts and pastes ten paragraphs from the Swedish copyright law (from 1960 at this juncture) into his post, after which he ‘translates’ legalese into fansubbing talk, arguing that:

As soon as a work (sub) is published (here on dXs) it is owned by the author (the person who translated the text). To publish in other places (underexposed) without the consent of the author (the translator) is a crime according to Swedish law. Making changes in the work (sub) and then publishing it is also forbidden according to Swedish law. [...] So … to end this posting, translators who have had their texts published on a site other than the one they have authorized can subsequently report that site for copyright infringement and have it closed down …

Isn’t Sweden a wonderful place to live, huh?

Forty-five minutes later, ‘Fjodor’ receives a reply from ‘halm’, a subber who understands things very differently:

You cannot copyright something you do not have the right to copyright. This is called legal error. A translator here does not have the right to translate another’s work without their permission. Read the law again and you’ll see that it is illegal to translate somebody else’s work. Yes, to my mind what we do is illegal. That’s why a translator cannot have the copyright on the subtitle.

According to Fjodor, subbing is legal, an argument he will repeat a few days later when he continues: ‘A sub is a work in itself’, [...], a sub does not alter the original work because it is a work in itself. And he continues, ‘Hosting a sub approved by its author is not illegal, but hosting a sub somewhere the author has not approved of is an illegal action’. Before the thread is closed down on 22 June, there is no record of halm returning to the discussion, but others step in where he/she left off. ‘Pechblände’, for instance, raises the issue of translating a book from English and asks Fjodor sceptically, ‘are you saying that this would be an independent work?’

As we know, this question was ‘solved’ at the Berne Revision Conference in Berlin in 1908. ‘Solved’, because while translation was completely assimilated under reproduction rights at that time, translators were also given the rights to their translation, ‘without prejudice to the original’. This begs Salah Basalamah’s question: ‘How can the original remain present within the translation, when the change in language constitutes a major change in form, and it is the form alone – the expression – which is protected by copyright?’ In light of the various takes on the process of translation via a vis the original/new work relationship, the most interesting of ‘Pechblände’s’ suggestions is when he/she counters that a translation does not have to be made from a print-based original, but can actually be made directly from an audio book. This possibility will leave ‘Fjodor’ puzzled as well as speechless, and the whole thing is just left hanging. It is important to remember that what we tend to think about as ‘old’ media – for instance the physical book – was never the kind of stable entity it is sometimes made out to be today, just as little as the digital work is completely unstable. As David Hesmondhalgh also notes, we must take great care to remember just how complex the relations between producers and consumers were before we found ourselves in the informational/digital present. Translation is one of the first instances of transformative use of cultural works and their treatments in international copyright, but it is not the last. To consider the discussions on the legal and cultural ramifications of translated work in an analogue space could shed light on how we view the instability of digital works and their relationship to authors and readers, or, to use a more updated terminology, ‘users’.

Conclusion

In this chapter, I have tried to establish that fansubbing is a new branch on an old tree. So is Google Translate or any other machine translation that allows us to ask old questions in new settings. Many of the issues with which today’s fansubbers engage echo a much older discussion in the international copyright community. As ‘authors’ of a new work that has a value by itself but that simultaneously somehow relates to an underlying work, fansubbers are – for good reason – confused about the way works collide or overlap in translation. Most of us are. Even, as it were, those involved in the global governance of copyright since the end of the nineteenth century.

One of the problems caused by translation in early international copyright had to do with authorship, or rather, the power of the author to authorize, to exercise control of his/her work. Anxieties over the perceived instability of the text in print culture are now exponentially increased thanks to digitisation, and the importance of being identified as the ‘author’ remains central to
12 Have amateur media enhanced the possibilities for good media work?

David Hesmondhalgh

Discussions of amateur media need to pay attention to the meaning of work, and the quality of working life. I begin by arguing that celebrations of the creative possibilities of digital media have unwittingly repeated the sidelining of questions of work in studies of cultural production. I then introduce two strands of analysis that have helped to improve this situation by addressing work in digital and cultural industries. The first is particularly germane to discussions of amateur media: critiques of ‘free labour’ (unpaid work) in IT and cultural industries. The second has generally been concerned more with paid work and employment in these industries. It points to the fact that, alongside autonomy and relatively good working conditions, these sectors are often characterised by casualisation, precariousness and overwork. In this second strand can be found a welcome emphasis, missing from the first, on quality of working life in media production. But these studies have paid little sustained attention to other, more rigorous conceptualisations of quality of working life in sociology and philosophy. To correct this, the next section then presents a normative framework for what constitutes ‘good work’ and ‘bad work’ in modern societies. I then draw on this framework to consider the other case studies in this section of the book. These case studies affirm that amateur media can enhance media production and consumption. But they also, in my view, show how tentative and limited such enhancements may be. Maintaining amateur careers alongside professional ones can lead to people making excessive demands on themselves. In commercial systems, amateur work oriented towards high quality can be exploited by the less scrupulous.

Marginalisation of employment and occupation by digital optimists – and critiques of ‘free labour’ as a response

Media production has been the subject of thousands of studies. But until recently, only a very small proportion of these studies focused on the creative labour upon which media production depends. The forgetting or devaluation of work in analysis of media production has taken a number of different forms. One, apparent in some arts and humanities studies, is a focus on individual producers rather than on the complex division of labour which, as the