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### **The Tolkien Legacy, The Estate, Enterprises, And The Dismemberment of Other Hands**

*Audience: Anyone interested in J.R.R. Tolkien or his works from teenagers on up in age, also anyone who enjoys role playing gaming in J.R.R. Tolkien's world.*

The Tolkien Estate sold the film, stage and merchandise related rights for the Lord of the Rings and The Hobbit to Saul Zaentz who then created Tolkien Enterprises. J.R.R. Tolkien wanted others to build upon his legacy, especially in the areas of visual arts and music, as well as quality derivative written works. He had a strong sense of how these derivative works must meet a strict level of purity, appreciation and accurate understanding of his works. The Estate has kept for the most part, a very loyal academic and literary approach in the treatment of J.R.R. Tolkien's many works. While not being significantly heavy handed in preventing derivative works, they have been discouraging of such efforts. Enterprises on the other hand has had a solely commercial and legal interest, with little indication of any concern for preserving the literary quality or “purity” of the works. They have shown a very significant heavy handedness in dealing with absolutely any derivative works on any scale. Other Hands (OH) magazine was a non-profit journal run by fans of J.R.R. Tolkien and role playing gamers who had a strong reverence for his works. This journal was originally given permission to operate by Enterprises, then nine years later Enterprises demanded that the publication be shutdown.

J.R.R. Tolkien wrote prolifically during his 81 years of life. He loved languages, studying many, and he even created more than a dozen of his own languages. Tolkien was a world renowned philologist, and translated a number of famous works. He was Professor of Anglo-Saxon and English, and later Professor of English language and literature for Oxford University in England. Outside of the purely academic world, he is most famous for his creation of The Hobbit and The Lord of the Rings as well as The Silmarillion, Unfinished Tales, Book(s) of Lost Tales, History of Middle-earth series, and other works published posthumously by his son Christopher Tolkien including the recent 2007 release of The Children of Hurin.

In some areas, under strict consideration to “accuracy”, he clearly wanted derivative works such as art and music to be allowed, as he stated in his “other minds and hands” quote:

*“I would draw some of the great tales in fullness, and leave many only placed in the scheme, and sketched. The cycles should be linked to a majestic whole, and yet leave scope for other minds and*

*hands, wielding paint and music and drama.” (Tolkien, J.R.R. Letter 131 to Milton Waldman. Circa 1951).*

This quote strongly indicates Tolkien's wish that others would build many derivative works based upon his legacy. That being said, he was very picky about these artists staying true to the complexities of the world he created. He hoped that derivative writers would see “how closely linked is linguistic invention and legendary growth and construction.” (Letters, #297, p 387). He was very frustrated by the majority of submissions not seeming to “get” his vision, and referred to the poor quality fan fiction attempts as “tripe” (Letters, #292, p.371). He was not particularly impressed with large corporate art resources either, especially from the United States. Whereas he was potentially open to individual artists themselves, he had a “heartfelt loathing” for “anything from or influenced by the Disney studios” (Letters #13, p 17).

In 1966 J.R.R. Tolkien sold the film, stage and merchandise rights to United Artists. When he died those rights reverted to the family. The family, represented by The Tolkien Estate sold the rights to Saul Zaentz who established the business entity Tolkien Enterprises to manage the intellectual property licensing and legal enforcement. Tolkien Enterprises has taken a very commercial rather than literary view of the works, and has been very aggressive in using the IP (Intellectual Property) laws to enforce the rights it acquired though never created.

Tolkien Enterprises' imperious enforcement has led to many authors, artists, musicians and publications having their works forcefully removed from the public venue. Some artists' lives have been dramatically impacted by Tolkien Enterprises, having their works removed from public access (Anois. 2007), rather than allowed to be released to the general public for what Tolkien may have wanted for the betterment of mankind, and specifically England. He would probably have wanted the enhancement of his world being opened up to a broader audience worldwide. Tolkien would likely have been dismayed by the stifling of the potential for development of quality works created by “other minds and hands” as derivations of his original works as he implied he wanted (Letters, #131). On the other hand Tolkien was not impressed with the early attempts at fan fiction proposals he received, and the general “pop” culture over his works. Though J.R.R. Tolkien provided mixed views on his attitude towards derivative works over the years, he was very clear on his strong active stance against piracy of his works, especially in the case of the USA Ace Books piracy scandal (Letters, #269,270,271,364,367).

The relationship between Enterprises and the Estate over the decades has at best been strained. The Estate does not directly get a single penny from the movies or merchandise created from the Lord of the Rings or The Hobbit movies. Only if the products are directly derived from the books, does the Estate directly benefit financially. As an example, The Hobbit cartoon movie led to figurines made by Knickerbocker toys in the styling of the Hobbit cartoon characters, rather than accurately fitting the descriptions of the books. This meant that Enterprises would get the profits, and the Estate would not see a penny. On the other hand, Toy Vault made miniature figurines that were accurate renditions straight from the books, letting the Estate get some profits with Enterprises getting none (Lord of the Rights. 2001).

This dichotomy of IP ownership, means profits on all the billions of dollars and pounds made on the Peter Jackson Lord of the Rings films went to Tolkien Enterprises/Saul Zaentz (and New Line Cinemas and Peter Jackson), and not a penny went to the Family/Estate. However, the Estate has indirectly benefited because of the renewed interest in the books, leading to a very significant spike in book sales.

Iron Crown Enterprises was given exclusive world wide rights by Tolkien Enterprises to create role playing games based on Tolkien's works. The company had this license from 1981 to 1999. They were suddenly forced into bankruptcy by Enterprises using legal tactics that forced ICE to freeze sales, forcing them to pay for expensive storage and insurance, while prohibiting them from selling off the remaining inventory assets, all the while continuing the expensive legal battle with court hearing extensions, court costs, lawyers, etc. This quickly drained the very small coffers of ICE and led to the companies' demise in 1999.

The company was later reincarnated by Aurigas Aldabaron LLC, but was not allowed to (re)acquire the rights to continue creating Middle-earth/Tolkien-based games. These rights were instead sold to Decipher in 2001. Most believe that it was Enterprises' wish to maximize on the potential windfall from the Peter Jackson movies, that led to their using what many considered at best questionable legal practices to free the license up from ICE and then reissue it for a significantly higher rate. Whether that was the original plan is not publicly certain, but it clearly has been the end result. Decipher just recently announced that it would not renew its license in Summer 2007, so the licensing will once again open up.

The confusion and complications caused by the split ownership and licensing between the Estate and Enterprises, was exemplified in the seemingly unwarranted, and on the surface inexplicable, forced termination of the well respected, nine years long nonprofit journal *Other Hands* magazine in 2001, two years after the

destruction of Iron Crown Enterprises by Tolkien Enterprises. OH played a strong supportive role to those using the Iron Crown Enterprises Middle-earth Role Playing game system.

Other Hands magazine was a non-profit journal founded by Professor Chris Seeman for those fans of J.R.R. Tolkien's works that wished to role play in his imaginary Middle-earth. Though primarily a role playing gaming magazine, many Tolkien scholars and non-gaming Tolkien fans found the publication extremely valuable. The magazine was given verbal permission by phone (Chris Seeman, email, 2007) to publish by Laurie Battle, Licensing Director of Tolkien Enterprises in 1992. In fact she was interviewed in Other Hands in Issue #10/11 on November 1995 by Chris Seeman on the topic of the role playing gaming rights of Iron Crown Enterprises for MERP (Middle-earth Role Playing). In 2001, Tolkien Enterprises apparently desiring to “clear the slate” for the role playing and Tolkien fanzine world, sent OH a “Cease and Desist” letter forcing journal out of publication, claiming that Other Hands was “an unauthorized derivative work of the Tolkien works” (Hurst, 2001).

Since then, the Tolkien-based role playing gaming world has struggled. Long gone are the heady days of Iron Crown Enterprises more than hundred supplement books. The new licensing restrictions have severely stifled the creativity and accuracy that most gamers desire, and it is likely the overly restrictive license that has led to Decipher only minimally supporting the Lord of the Rings Role Playing Game product line intermittently, and their opting not to renew the license in 2007.

In frustration with the lack of much material available in the way of “authorized” resources, there has been a growing “underground” movement growing steadily internationally. Many of the community members in this movement were part of ICE, OH, and Decipher LotR authorship spanning more than 25 years, others are just inspired by those works. There are now hundreds of authors, and millions of participants in this movement. There are multiple “unofficial” magazines and game systems now available. These include the Hall of Fire zine ( <http://halloffire.org> ), Other Minds magazine ( <http://othermindszine.org> ), Ambarquenta role playing game system ( <http://www.ambarquenta.com/> ), Hither Lands role playing game system ( <http://www.hither-lands.com/> ), Eä d20 role playing game system ( <http://ead20.com/> ), dozens of adaptations of existing games systems to Middle-earth (GURPS, D&D, Harnmaster, HARP, etc.), and hundreds of new adventure modules and supplements for many game systems set in Middle-earth.

It will be another 30-40 years before the Tolkien works officially become public domain, assuming no

further extensions to copyright posthumous laws. So for now, the legal wrangling and the up and down drama of those wishing to use their “other minds and hands” to build on Tolkien's works will have to continue to worry about their creativity being dismembered when trying to make their works publicly available.

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