



**Aspirations and Anxieties: How Authors See Copyright Today  
With Daniel Hahn & Nicola Solomon, Society of Authors  
Recorded at London Book Fair 2018**

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KENNEALLY: Well, you are very welcome, indeed, to our program. Good afternoon. Welcome to Aspirations and Anxieties: How Authors See Copyright Today. My name is Chris Kenneally. On behalf of Copyright Clearance Center and Ixxus, I want to welcome you to this presentation.

Translation, as Salman Rushdie has noted, has its roots in the Latin for bearing across. Rushdie, born in Mumbai – or Bombay, as it was known then – acknowledges the common fear that something always gets lost in translation. Yet he hopes, too, that something can be gained. In Rushdie’s own native India, there are 22 official languages and easily 100 more spoken in dozens of communities from the Himalayas to the Bay of Bengal. The emergence of smartphones and tablets, enabling so-called mobile reading, promises to make India a nation of translations.

As India, so goes the world. The variety of human expression on this planet is, frankly, staggering. According to the Ethnologue, which publishes a database of all known global tongues, more than 7,000 languages are spoken today. In the ancient myth of the Tower of Babel, the multitude of languages were a curse on humanity from God. Translation, though, can rescue us from that predicament and draw us closer together. Indeed, publishers, authors, and readers attending the London Book Fair here at Olympia Hall have a bounty of languages to get lost in and to gain from. A central feature this year, of course, is the Baltic countries Market Focus cultural program, highlighting works from Estonia, Latvia, and Lithuania.

The business motivation that brings the book world to London each spring is the exchange of publishing rights. The legal foundation for this marketplace is copyright. Yet as fundamental as it may be to all of our professional lives, copyright is also one of the more complex and possibly least well understood areas of publishing. In 2018, copyright laws and general respect for intellectual property face tremendous public and policy pressures in the UK, across the EU, and around the world. How do authors consider the threats to their livelihoods, and how are



they managing the opportunities? What, in other words, do the actual copyright holders think about copyright?

That's my question. And to help me answer it, I have two wonderful panelists here. I want to introduce them. First, Nicola Solomon. Nicola, welcome.

SOLOMON: Thank you.

KENNEALLY: Nicola Solomon is chief executive for the Society of Authors, a UK trade union for professional writers, illustrators, and literary translators that was founded in 1884. Her role includes protecting authors' interests in negotiations and disputes with publishers and agents and campaigning for authors' rights, including copyright, the public lending right, and freedom of speech. Nicola Solomon is a solicitor and a deputy district judge in the Intellectual Property Enterprise Court. She's a board member of the British Copyright Council, the European Writers' Council, and the International Authors' Forum.

Also with me today is Daniel Hahn. Daniel, welcome.

HAHN: Thank you.

KENNEALLY: Daniel is a writer, editor, and translator with 50-something books to his name. His recent translation from the Portuguese of José Eduardo Agualusa's *A General Theory of Oblivion* won the International Dublin Literary Award and was shortlisted for the Man Booker International Prize. Daniel has designated a portion of his Dublin award prize money toward creation of the TA, the Translators' Association, First Translation Prize, which is administered by the Society of Authors. Daniel is also a past chair of the Society of Authors.

Daniel, I want to start with you, because what we're here to do, in part, is to respond to that wonderful hashtag on Twitter, #namethetranslator. We're putting you right up here. We're naming you.

HAHN: Me, me, me, me.

KENNEALLY: That's you, Daniel.

HAHN: Daniel Hahn, very important.

KENNEALLY: Exactly.



HAHN: #DanielHahn.

KENNEALLY: As fundamental as that would seem to be, just glancing around the floor here at Olympia Hall, we do not always see on the cover of books the name of translators. Describe that problem for you personally as a translator, but also for translators as a profession.

HAHN: So it's a funny situation we have, I think, as translators, because there are two things happening – two kind of forces pulling simultaneously and in opposite directions. One is we all feel very strongly that we should be recognized as the creators of these things, which we'll come to copyright when we talk about it. We should be recognized as people who are doing a thing that is creative and not just a thing that is mechanical or sort of programmatic. It's important that people know that this is my translation, and I am the author of this thing. I have the copyright in this thing. I am the author of this translation.

At the same time, while I complain if my book is reviewed and no one thinks to mention me, I also know that if my book is reviewed and no one thinks to mention me, it's because I've probably done a good job, because if I've screwed up, they absolutely will mention me. So one of the things – there is this tension.

The translators, I think, do want people to understand what we do. We want people to recognize that we are creators of a thing. We're not just people who've moved something around, put something through a bit of software, run an algorithm on it. But at the same time, the failure to acknowledge that we are creators, that we are owners of this creative process, while it's frustrating, it's also – though we don't normally acknowledge this publicly – this is sort of a compliment, because actually, I think mostly we read translations the same way we read anything. You read a crime novel that's translated from Swedish the same way you read a crime novel that's written in Scottish. You don't spend the whole time thinking, all this translation going on. How exciting that this translation is happening.

By some measures, the mark of a success of a translator is that the translator is as invisible as possible. But this does become problematic when we simultaneously need to be reminding people that I made this thing. I own this thing. I am the person who – whether it's copyright or anything else, that my creation and ownership of this thing is visible, while also being invisible.



KENNEALLY: Right. And we're here at the London Book Fair not only to remind readers of translations, but to remind the publishers of translations about all of this because – and as you have made a point of your prize, which I mentioned at the beginning there, at the introduction, your prize is there to, first of all, recognize first translators. It's to be shared between the translator and the editor. And it's a real recognition that translations are often the impetus to bring new writers to communities, wherever they may be. So the role of the translator shouldn't be invisible. It should really be recognized within the profession itself.

HAHN: Yeah. I think that's an interesting distinction, that I think being visible within an industry, within the publishing profession – it is slightly tucked away in the corner, but there is a Literary Translation Centre in the other great hall. It's bigger than it's ever been, and it's busier than it's ever been. I think being present here and having those conversations, being involved in not just conversations about the translating, but being involved in acquisitions decisions. We're also here having meetings with agents, meetings with other right-holders, that actually being at the fair adds a way of strengthening our position as people who are having this bigger industry conversation – in addition, of course, to the fact that we then have to go off and translate the wretched things. But that, we do on our own time, as it were. But I think being visible within the profession is important, not least because some of the people who need to be reminded that what we do is individual and is creative, some of those people are occasionally publishers.

KENNEALLY: Right. And –

SOLOMON: Can I just add to that?

KENNEALLY: Please, Nicola.

SOLOMON: It's particularly a problem with translation into English, where people then wanting to translate into other languages will often use your English translation, rather than the original. The translator in the middle will sometimes not be asked about that at all, and that's extremely problematic.

KENNEALLY: That sort of gets us directly to the whole copyright point, which we'll sort of weave into our discussion here, because permission is at the heart of all of this. The rights are really at the heart of all of that. I hadn't realized that. And it makes some sense, indeed especially if, as you say, the translator is invisible. They're picking up a copy, and they think that's an original.



HAHN: Also, English is the way into so many other languages. One of the reasons writers value their translation into English, it's not because we are better and it's not because we're going to sell many copies in English. But it's because being translated into English is how you're going to get – you have a much better chance of them being discovered in other languages, which is great. I think we translators into English are very proud of that. But it does become problematic, because there is this thing that we own, hopefully, with any luck, the copyright in our translation, which becomes the thing that is translated into another language. So I have – for example, many of you will know about *The Vegetarian*, which won the Man Booker International Prize a couple of years ago, by Han Kang, a South Korean writer.

KENNEALLY: Wonderful book.

HAHN: It was translated by Deborah Smith. Wonderful book. And one of the results of this book winning the Man Booker International two years ago was that this book, which had been translated into some languages, is now spread very, very widely across the rest of the world. But one of the things that's happened is Deborah Smith – Deborah's translation into English is actually what's being translated into many of those languages, rather than Han Kang's original. I have a friend who translates from English into Portuguese. I know that she doesn't know Korean, because she is my friend and I would have noticed if she spoke Korean after all these years. She is producing the Portuguese translation of *The Vegetarian*.

KENNEALLY: What's remarkable about that book, if I remember right – and you'll be able to correct me if I'm wrong – is that that was Deborah Smith's first work in translating from Korean.

HAHN: It was. Deborah Smith is sort of annoyingly good at all this, and I can say this because she's in Iowa. There's no possibility she's going to walk past this conversation. Deborah, very, very young, decided to teach herself Korean, because why not, and then while teaching herself Korean, translated this novel and sent it to a publisher, and it was published and won the Man Booker International. If it were easier to hate her, this would help. She's actually really nice, and we all really like her. But it's quite annoying.

But it's been interesting from her point of view. But she also has just set up a small publishing house, Tilted Axis Press. So she, coming from both these perspectives, being a new publisher and also a new translator, is sort of learning about where the complications are in these relationships. Particularly because she's been translating



this great writer, Han Kang, and seeing how her work as a translator, this thing which was published by Granta, Portobello in this country and in which she has ownership – how this thing is becoming the original, which is being translated all over the world.

**KENNEALLY:** Nicola Solomon, as I mentioned in the introduction, the Translators Association is a part of sort of a subgroup within the Society of Authors. What kind of work is the society engaged in trying to raise the level of appreciation for translation and for translators?

**SOLOMON:** Well, the Translators Association is incredibly important for that. Daniel and the group do huge amounts, and we are very much behind (inaudible). We make sure we name translators. But it's part of the whole bigger problem of credit. We also have a lot of illustrators amongst our members who have a similar campaign called Pictures Mean Business, because people forget to name the translators. They forget to name the illustrators. They forget to name the authors. Going back to copyright, which of course, is tremendously important and that's what you're selling, we also want our names to get known as authors, translators, illustrators, whatever, because that's what people will buy, particularly in a world that relies so much on brand. So every time you forget the metadata or you forget to name somebody, you are actually stealing in that sense, because you're losing them the possibility of future sales.

**KENNEALLY:** This opens up a wider conversation about copyright and appreciation for the intellectual property creator and for the intellectual property itself. Can you share with us what the temperature is around copyright here in the UK right now? Would you say that people have become disaffected from copyright? Are they disinterested in copyright? Or is there a growing interest in it? What would you say?

**SOLOMON:** I think that there's a great lack of knowledge amongst the general public about what copyright is and how it works. We don't give copyright education in our schools at all. I used to do some fashion work occasionally – I don't mean personally. I used to be a lawyer for fashion companies before here. And I used to go into schools, and I would say to people, do you know what copyright is? How long do you think it lasts? Can you copy this skirt? They would have absolutely no idea.

So people don't know what rights they have, and there has to be a growing interest in a world where everybody is actually a creator and where more and more what we



create is going to be important. Certainly, there's an interest from government. The creative industries have just been added to be one of the eight key industries. That's really important for us. But if the government thinks – and it does seem to think that we'll be making a lot of money from creative industries' exports, then it's got to protect what it's actually selling, which is copyright.

HAHN: When you were talking about education in schools particularly, it was 2014, wasn't it, the national curriculum lost – there was at least some mention of intellectual property as a thing in the national curriculum until a few years ago. So it has been there in some form.

SOLOMON: Well, when I looked through it for the word copyright, it did come up on a word search. It came up copyright the government for this document. Otherwise, it wasn't mentioned at all. It is really concerning. Of course, we're also at threat of actually losing teaching creative areas – music, the arts, drama. People are still teaching English because it's around literacy. But it's extremely concerning, and it's extremely concerning that people aren't being taught what their rights are, because you can't go into these industries unless you understand your own things. Equally, it is so easy to download from the internet. It's so easy to copy now. People need to understand what the ramifications are.

One area where I am seeing it – you mentioned that I sit as a judge in the county courts in this area. And a lot of photographers, particularly, are now making quite a lot of money by trawling the web for really quite incidental uses of their work and then suing for vast amounts of money. Then people suddenly do realize what copyright means. That's concerning both ways, because actually some of it genuinely is totally innocent because people don't know.

KENNEALLY: Right. I think that's the point. It's interesting how the web kind of giveth and taketh, right? There's an opportunity here to make the work more widely distributed. There's a global audience immediately whenever anything is published online. But it's also, unfortunately, kind of an open invitation for somebody to find a work, Daniel, of yours, and think, oh, I should translate that into Korean myself, or I should translate it into French, whatever, whether they have the right or not. So the education piece is so critical to that.

HAHN: I think it's critical. But actually, I also think that it's something we have to think about educating writers about better, because I think those of us, even those of us who are in this business, those of us who have published a lot, those of us who have written a lot mostly don't know nearly as much as we should. So it's



about the public and, as Nicola said, everyone now being a creator of some kind. Everyone out there is generating stuff that is being put out into the world. But I think the profession as well has to think more about how we get educated. I've been involved with the Society of Authors for a long time. I have some – I can't say this next to Nicola, who actually knows about this stuff – I know a little bit about copyright. But I'm sitting next to –

KENNEALLY: You would call yourself a dilettante when it comes to copyright.

HAHN: I would call myself an enthusiastic dilettante.

KENNEALLY: An enthusiastic dilettante.

SOLOMON: There aren't many of those.

HAHN: Yes, it's not one of the very hot topics at the moment. But I'm also very conscious that I still know much, much less than I should. And I constantly run up against conversations even involving negotiations with serious, very good, established publishers where I really need to know something in order to have this conversation in a way to protect myself.

I'll just give a very quick example of that. I was in a negotiation with a contract with a very large publisher in the US where things are different in terms of translation and work-for-hire contracts and so forth. There was a little kind of back-and-forth. The person I was talking to said, well, the thing is, you're going to have to sign over copyright on this, because we have world English rights on the original, and we have to be able to sell this to other places. We have to be able to sell your translation on to people who are going to be licensing the original.

I know this is not true, and I know this is not true because I had 49 books behind me in which no one had ever asked for this. I wrote back to the publisher and said, well, you don't need to. You can just do this, and I need a clause saying this, and that's going to be fine, because I happened to know because I've been doing this for a while. And he said, well, but all of our other translators have signed this – which is worrying, because – of course, the Society of Authors exists to know this stuff for us so we don't have to. None of us will ever know as much as Nicola knows, and that's great. This is why we need her. But there is also a certain amount that we need to know, and I constantly run up against my colleagues and, indeed, in my own case sometimes, a level of ignorance which is risky, which is problematic.





KENNEALLY: That's the dilemma for authors, right? They want to see the work published. They want to have an audience. They want to feel as if the work that they've done has some reward. But they don't think about, first, the pecuniary award. They think about the personal reward of sharing that work with others. So they're just so happy to sign a contract that they really don't look and see what's in it.

SOLOMON: But it isn't just about money, although mainly it's about money, but it's not just about money. It's also about the control later. That's what we'd say to someone like Daniel. One of the problems that we have a lot that I talk about is reversion rights. If you've given away your copyright, if someone else stops using it, that publisher, they've still got those rights forever, and you can't get them back. Yet we've got cases where we've reverted rights many years in, and then now it's very easy to self-publish them or publish them with a small publisher.

We've got classic authors where we're making 7,000 or 8,000 pounds a year. Bearing in mind that professional authors' average salaries or average earnings are 11 ½ thousand a year, that's significant money. And that's not money you're taking back from a publisher. That's money that nobody would be making if you hadn't got your own rights. And ditto, you want to control your name, and you want to be able to stop things being published later if they're wrong or you've changed your mind, or you didn't much like it, or not being associated with particular people. These are the rights that copyright give you, as well as the straight economic rights.

HAHN: And what you're saying, I shouldn't ignore. In some ways, particularly translation – because when I, again, had this argument about whether I was signing over copyright or keeping copyright in the translation, one of my arguments is not only I want there to be a possibility of reversion of rights at the point at which this is no use to you, but also, your author won't be very happy if when his rights are reverted, my rights aren't reverted, because it also means that no one can then publish him either without creating a new translation. And as Nicola said, what you're doing is you're just asking for something which is almost certainly of no monetary value to anyone but could conceivably be for us, for our authors, who are likely to have much more powerful agents than we do, which is why they always get invited into this conversation when they're needed.

KENNEALLY: Nicola, I want to turn you back to something you referred to earlier. I want to be sure everyone here knows about it, which is the government's Creative



Industries sector deal. As you said, that sort of puts a spotlight on the creative industries as part of the wider British economy. Why is that important?

SOLOMON: It's really important for us that the creative industries are recognized, because we are now looking at trade deals, and we've got to make sure that those trade deals don't somehow lose things for the creative industries in the hope of holistically getting something better for farming or something the government then has its focus on when people are negotiating. So we needed to make sure there is that memory that there are things that we need, and the particular area for us. And I think one of the things we need to go back and say about copyright is we all understand that there is a need to share information and that copyright is a balance between the rights of the creator and the rights of people to have wider information.

KENNEALLY: Access, yeah.

SOLOMON: We think it's very well balanced in the UK, quite particularly, and we are concerned that there are other places where it is not as well balanced, particularly the US, where the fair use doctrine is really worrying to us. Our fair dealing doctrine is much narrower. It's much easier to understand. And this fair use transformative doctrine would mean that a lot of us did not want to have our works published in the US on those bases. So we've got to make sure trade deals really understand that.

KENNEALLY: I just want to, for the audience's sake, kind of drill down on some of the definitions there. So you speak of fair use, which I could help with, but I'm not a lawyer. You are the lawyer. Can you distinguish fair use in the US and fair dealing, and what the critical differences are?

SOLOMON: I think rather than talking about the copyright differences, there is a difference of feeling, and again, it goes with the whole freedom of expression, First Amendment, I think, US view about sharing – that if you transform a work and make a transformative use of it, then you're entitled to use the original for that.

One example – I gave a talk two days ago about using characters. I was saying, if you were making that Netflix *Crown*, well, in the US, you would really have no problem, because the idea is if you imaginatively change something, then fair use will allow you to do that.

KENNEALLY: It has to be changed – there are still – not to confuse anyone here.



SOLOMON: Of course.

KENNEALLY: Of course, there are translation rights in the US, too. You can't simply pick up a book and translate it.

SOLOMON: No, no, no, I'm not talking about translation. I'm talking about changing something into film or changing imaginatively or – there's a lot more leeway, whereas our times about when you can use copyright are much more narrow and much more defined. My view, actually, is if – obviously, because I'm used to our regime – but if you're using someone's work in a transformative way, that's fine. I don't really understand the idea that suggests you don't then have to pay them for those ideas.

The example I can give here is we act for many estates at the Society of Authors, and one of them is the estate of George Bernard Shaw. Well, we held the rights in *Pygmalion* and gave the theater rights for it to be transformed into *My Fair Lady*. But we still felt that you're basing it on something, and you should pay for that imaginative use to start with. We're not saying you should be stopped from doing something with it. But you should be able to pay for it. You should pay for it.

KENNEALLY: Am I right that that negotiation over those particular rights has turned into something of a real kind of annuity for the society?

SOLOMON: Yes, actually very much so.

HAHN: A building.

SOLOMON: I don't think it's any –

KENNEALLY: A building, that's right.

SOLOMON: A building. I was going to say, I don't there's any surprise that our second building was bought in 1967. And now, of course, going to be transformed into lovely new buildings in Bloomsbury.

KENNEALLY: You alluded to the trade deals that will be negotiated as Brexit continues to go its path, whatever that path may be. Currently in the EU right now it's been a long time coming, but there is maybe not an expectation, but an anticipation, perhaps, that there will be some final EU directive on copyright. Can you update



us on where that will be? And if it comes through before March of next year, that will mean it is a part of British law.

SOLOMON: Well, we love the copyright directive. It's not the first copyright directive. European law's been very strong on copyright for a long time. But this is part of the whole digital single market strategy. Now, what's been said by the government is that we won't necessarily be part of the digital single market. But the copyright directive has to be through by the end of this year, because otherwise, it will fall in Europe. They've got to go through by this presidency as well. And if it is through, then we'll almost certainly – it'll be through before March next year. We will then adopt it in the two-year period. We have a very good – the UK's better than some about actually adopting EU directives.

Why that's brilliant for us is that the Europeans have a very different view of copyright. The Europeans believe that copyright is a right that is a personal right. You own it. It's a moral right. It comes with something which is inextricably a part of the personality of the creator. There's a much higher understanding of culture and the importance of it. There's much more concern about selling your copyright. Whereas here, it seems a property right, and in America, too. That's different, and it's why we struggle with moral rights some.

But it means that the Europeans are extremely keen to protect creators as well as to protect copyright. And it was interesting to hear Ansip talking about that on Tuesday. Because of that, one of the things that are in this copyright directive is a series of protections for creators, allowing them to have transparency so they can see exactly how much has been earned from their work over a lifetime, even if they did give away the copyright, and also what you might loosely call best-seller clauses, so that if over the years it's earned significantly more than you might have expected, the creator, whatever the deal they originally made, could go back and ask for a share.

This seems to us important parts of natural justice, particularly at a time when the world is changing so quickly that when you give rights in your work, you really don't know what's going to be made of them, what's going to be useful. That's why publishers are trying to take wide rights at the moment, because they don't know what's useful. But it's also why, A, I always tell creators to hold on to as many as they can, and B, if they have given them away, why it's really good that there are these kind of balances. And I would say they're good for publishers, too, because I think if authors are reassured that they would be able to go back later,



they might be more comfortable in giving some rights that publishers want and taking a chance.

KENNEALLY: Daniel Hahn, your experience writing those 50-some books and working around the world has given you a kind of impromptu education in copyright. I wonder whether you can cherry-pick a bit. Are there aspects of certain countries' treatment of copyright and treatment of creators that you particularly admire? What Nicola's referring to is, of course, this notion of, if I have it right, *droit de l'auteur* – the right of the author. There's not a single translation for copyright into French. It really uses the word author and therein sort of focuses –

HAHN: Yeah, the fundamentals are completely different. It's not just a version of the same thing. It's one of the things that's interesting, particularly not just being a writer, but also being a translator, that almost every project I do – so just very briefly, if you don't know this, if I translate a book, the original copyright remains intact. So copyright in the original still exists. But another copyright comes into existence as I create a new thing. So any of my books in translation will have two copyright lines on the copyright page – copyright of the author, such-and-such a date, copyright me, such-and-such a date. Which means that constantly, any translation, almost by definition, is going to have these two very different – will have been established by two very different systems.

One of the issues that constantly translators are coming up against is trying to figure out how these jurisdictions are going to harmonize or not harmonize, because I may be translating something which was first published in a certain year in a certain country which is not this country. I'm working with an American publisher, which is a whole other thing, obviously. And one of the reasons I can't answer your question is because I don't know, and I'm aware that I don't know, which is a problem, in a way. So my function here it to say, look how little authors know. Isn't that a problem? I'm kind of a helpful embodiment of the ignorance of authors in this regard. But I'm conscious –

KENNEALLY: There are people here ready to capitalize on that, Daniel.

HAHN: Yeah. You have as much ignorance as you want, Chris, as much as I can give you. One of the things that's really striking – it feels very notable as a translator not only that there are, of course, jurisdictional differences, but that everything I work on is by definition going to be a manifestation of those problems. Translators, apart from everything else, are very frequently working for publishers in other jurisdictions. We're working with contractual systems, contractual law in



other countries. We're often working with contracts written in different languages, which also has some implications for a number of things, but not least whether I can get Nicola and the other people at Society of Authors to read them and check that I'm not signing anything insane.

But translators – one of the reasons I think we're quite an interesting case, apart from, of course, all the obvious reasons why we're an interesting case, is that actually everything we do is two or three times more complicated. We mostly don't have agents to try and figure out what's happening in France at this moment on our behalf. So almost everything we do is sort of subject to anything that is not well harmonized, anything that is not well articulated, anything that has not yet been codified properly, because things change so quickly.

KENNEALLY: I was thinking as you were saying that, so these contracts are in French or Portuguese or Korean, they're also in legalese, which is its own language, right?

HAHN: Yeah.

SOLOMON: And of course, I don't think I'm giving away any of your trade secrets here if I suggest that many translation contracts aren't for so much money, and therefore even if you could get lawyers to look at them, the costs would be completely disproportionate.

HAHN: Right, exactly.

KENNEALLY: It's not a practical matter. As a practical matter, technology is involved. It's 2018. So I know for you, Nicola, and at the Society of Authors, looking at the technological piece of this is really critical. That brings into play things like standards, but standards particularly around identifying authors and works and being sure that when one does come across the work, one knows what the rights may be or that are available or not. Talk about that.

SOLOMON: Well, it's really important that you should be able to look at a work, know what rights are available and so on. Even more basic and important that when a work is used, that you should be able to identify the creator. Obviously, a big question for all of us is how people are going to be monetizing work in future. What if you put up a snippet from my work – particularly for our photographer members, where their photographs get used, our illustrators, our journalists with short-form pieces. You may have put up a blog on your own website. You may not even have a problem with someone taking it and hosting it. But actually, you



would quite like a share of that advertising revenue, for example, to take, particularly if it's about a YouTube example.

Even if people are willing to give you that money, they can't do it if they can't identify you, and we can't create systems for micropayments if we don't have unique identifiers. It hasn't been such a problem in books, where we have ISBNs, and that works pretty well. It is a problem with self-published books, particularly on Kindle, where they have different identifiers. Obviously, standard identifiers are much better. And it's certainly a problem for smaller areas.

And I know that there are things – I was talking to Michael Healy earlier about the ISNIs, which identify names. He said they had a case where all of Michael Jackson's micropayments were going to a jazz musician called Michael Jackson, but not the one. This way, every person gets a unique number. That would be incredibly helpful if it was widely adopted to mean you could identify your work, and then you can hang on that rack, as it were, the things you want to say about it. Sorry, you can't cut – you can use this, but you can't cut it. Sorry, you can use it for this – you can use it for educational, but you can't use it for commercial. These are things that it's really important we work on together to develop in a world like this where we want to facilitate technology. It's really important. People want their work to be read. But they need the payments and the identification to get back to them.

**KENNEALLY:** Daniel Hahn, that all gets back to this notion of ownership. I wonder whether you can tell us about how translators are coming to the world of self-publishing. Perhaps they don't need to – if they can work directly among authors, perhaps they can go and publish the book themselves. Is that beginning to happen? And how does that complicate things for every –

**HAHN:** It's happening a little bit. But as you suggest, because the author is involved, it's a very different proposition to someone who's writing a completely original piece. I could now write 500 terrible words and publish them in some form without having to consult anyone, unless of course it's out of copyright. But if it's something which has a copyright and an original, it becomes a slightly more complicated proposition.

And still – even though I think we have in lots of ways changed the way we think about independent publishing in this country, there are still lots of countries where this hasn't happened. I've certainly had conversations with a lot of authors where I've said, actually, I think it's going to be quite hard to find a trad publisher here.



But I think we should think about you and I come to some arrangement with the money and we think about some other way of putting it out. The money is always a problem because it's the publishers who pay me, and I need someone to pay me because I need to eat.

But one of the things that does often happen is I'll come across an author who still thinks that when I say independent publishing or whatever I'm going to call it, it's somehow an admission of defeat, because the way it's being thought about in Country X is not quite the way we think about it here. There are still those kind of frictions between the way that those different kinds of publishing are seen in different places.

There are some cases where authors in other countries are very happy to be publishing themselves in English. Every translator I know gets an email about once a week from someone saying, I've written a great novel in Spanish. I think you're the translator for me. Would you like to translate it? There isn't any money exactly. But besides there not being any money, it will be great, and then you'll be really famous when it's a success, because it's going to be – I'm absolutely confident it's going to be very successful. That's a slightly different case where they, I think, don't understand the market, don't understand anything, including –

KENNEALLY: I was just going to say, including whether it's any good.

HAHN: – the quality of their own novel or my need to pay my rent and don't have a sense of the scale of our market and the discoverability issues of our market and all the things we know about. But there have been a few examples of either translators and authors working together for a sort of self-publishing arrangement or where translators have decided that, as indicated of Deborah Smith, whom I mentioned, they're basically going to set up a publishing house.

In some cases, they've done that just to do their own translations. They've decided that there are issues to do with getting international literature into traditional publishing in the English-speaking world, and maybe I will just do it myself. I will invest a little bit of time and a little bit of money and make my own notional publishing house, which is two books a year which I'm going to translate myself – a way of kind of creating some kind of new business model and new publishing model to work with an author in another country for whom I and my publishing house will be the conduit to a new set of readers.





KENNEALLY: I think it's fascinating, and it's interesting how all of that still gets us back to copyright. You pointed out to me earlier, Daniel, we live in a hybrid world. Everyone's a hybrid publisher, author, translator, businessperson, distributor, the whole thing. So there is no clear-cut role. At one point, perhaps in the past, not even that long ago, there were writers. There were translators. There were publishers. Now, people are all of those and more.

HAHN: It's not just that, as it were, the professionals are all of those, but everyone is all of those. As Nicola said in the beginning, everyone is now a creator of some kind. Everybody is publishing in some form. It may be that the medium or – I was going to say the medium is Twitter. Maybe the form. It's a form rather than a medium. But it means that everyone is engaged in this conversation, though maybe oblivious to it, in a way that is, of course, completely new.

One of the things that really interesting from the Society of Authors point of view is one of the things we have to do is we have to decide who is an author? This comes up also in organizations – I've been involved for a long time with English PEN, which protects the rights of writers. But does that also include the freedom of speech of someone who tweets something defamatory, say? So those boundaries of what is the activity that we're defining as authorship? What is the activity we're defining as the creating of a thing? Those boundaries are – I don't know if they don't exist anymore, but they're really hard to find.

KENNEALLY: Absolutely. Tie that up for us, yeah.

SOLOMON: Here's something that I say to people all the time that I'm sure no one thinks about. Every time you forward an email, you're infringing the copyright of the person who sent it to you because you're publishing it further forward. Now, I think you could say, well, I had an implied license to send it on. But actually, our own emails and such, we'll just say, you shouldn't forward these other than to the person for whom it's intended for legal reasons. Every time you do, that's a straight infringement of copyright under traditional copyright law, will always be –

HAHN: Because you're creating a new copy of this thing.

SOLOMON: Copyright means you cannot create – and you cannot copy something. And you are copying it to somebody else. Every time you post it on the internet – every time, indeed, you file it somewhere.



This is why – one of the areas we haven't really looked at is we have to have exceptions around education and so on. We have to have exceptions around archiving. Authors are not uncomfortable with that. But we need to make sure that they're not so wide. So if we look, and it's always terribly sensitive ground – things like the Marrakesh Treaty, which help people who are visually disabled or print disabled, but print disabled needs to be defined so it doesn't just mean I like reading it a bit bigger, and therefore I can read it for free, because we have to make those balances correct between the owners of copyright needing to be paid and people who very legitimately need to have free bigger different forms of seeing things. These are always very big discussions.

KENNEALLY: Well, if everyone's a creator, everyone's an author, we want to give people here a chance for everyone to be an interviewer, too. So I do have a handheld microphone, and if you've got some questions for our panel, I'd like to try to get a to a few of those. But first, I want to thank Daniel Hahn and Nicola Solomon from the Society of Authors for a great conversation. Thank you very much, indeed.

(applause)

SOLOMON: Thank you.

KENNEALLY: I can't imagine I've ever been to a discussion about copyright that doesn't just generate a whole flood of questions. But do we have any questions here? If you do have a question for Daniel or for Nicola, anyone?

HAHN: Can I ask you a question, Chris, quickly?

KENNEALLY: Sure, please.

HAHN: Something which I've been meaning to ask you – and I should have done this beforehand. But when we were talking about – I was saying that I think authors don't know enough. I wonder whether you feel that this is the same problem in the US, actually one of the issues we have in the US? Because I have friends who write and translate there. One of the things that is an issue there, as much as it is here, is a profession that is becoming more professionalized in lots of ways, and the Authors Guild are doing great things in lots of ways. But actually, it seems to me that at least as much, we have the same problem with the writers where you are.



KENNEALLY: Oh, absolutely. First, I'm fond of saying to my colleagues at Copyright Clearance Center that when it comes to copyright, if you're confused, you're beginning to understand the problem, right? So I would say at least there's a general confusion across the board with authors. And I would say for authors particularly – well, it's funny. Speaking honestly, before the digital age commenced, I think there was some notional idea of copyright. But it was so difficult for anyone to do the copying that in practical matter, you knew when you were signing a contract and when something was not going to be freely published. When the digital –

HAHN: And also, it either is a thing or it's not thing. There's a limited number of possible states for something to exist in. It either is a physical book or it doesn't exist.

KENNEALLY: Yeah. But I think where particularly the confusion comes in in the US law – and Nicola was speaking about it – was with fair use, because there is no way to define fair use in any kind of strict terms. Fair use is always about whatever the judge rules is fair use based upon the examination of something in four factors. So it's difficult for academicians, it's difficult for documentary filmmakers, for many others to really have some sense of what can I use and get away with if I – and they begin to think because things are so easy to use, I can use anything. So they've kind of taken it and pushed those boundaries so far that people are pushing back right now.

HAHN: It can also be the risk of the opposite, presumably, that people go, well, actually, I have no idea what's safe. And as Nicola said, we also want people to feel like they can use things subject to limits and subject to payment. But actually, I would have thought the opposite risk also exists, that people go, actually, I don't really know if it's – I mean, I'd like to use this thing, but actually it's anyone's guess.

SOLOMON: Well, I think there's a particular risk for authors. I think there's two things here. One is authors need to know more about copyright, because you used to a bit go, well, you know what? That's why my publishers take their mouthful. That's why they get 90% of the money and I only get 10% of the money. They do that kind of thing. But now, with everyone being hybrids and with it being a range of rights, people need to be much more savvy. And then there is the question about permissions or using things, where what happens is authors get frightened into not using things because of the fear if it goes wrong.



And the problem is that – I said to someone just today, actually, before I came here. She – you know, I want to write a book based on this person. I said, the thing is, this person’s got loads of money. So whether or not they’re right when they claim that you’re infringing their copyright, you’re not going to be able to defend it. So you might want to do something slightly different or do it slightly differently, and it can have a chilling effect.

Of course, we’ve seen enough places – and we haven’t really talked about freedom of speech – but we’ve seen enough places where freedom of speech is stopped for all sorts of reasons. We don’t want copyright adding a layer to that. Of course, that’s what the copyleft brigade always say are, well, you’re chilling education. We can’t share things. You’re chilling speech. It’s not like that at all.

KENNEALLY: Yeah. And I think, certainly, Daniel, further to your question, in the US, the independent publishing movement really has taken off tremendously. We’ve seen very successful authors like Joe Konrath or Hugh Howey and others who really have been very smart about the way they’ve managed their work. I think they provide an example to follow, a model to follow. I think many authors are realizing that this is something I own and I can manage and I can operate that part of the business and still write. So it’s kind of liberating.

HAHN: But there’s obviously anxiety, for very good reasons, among the traditional publishers, which you see – again, translation is quite an interesting interface for this, because you will often have issues to do with writers who are writing in countries where ideas are copyrighted differently suddenly being translated into a new market.

I am constantly writing to my authors and saying, I have translated your novel. It’s very good. You know that bit where you quote all of the lyrics to a Beatles song? This may be an issue at PRH. They may be uncomfortable with this in X country, which I’m not going to name, where obviously no one is going to check – I mean, it’s not that it’s illegal, but no one is going to do anything about it. It’s a small publisher somewhere. In the moment of transition, suddenly an author being very lax and an original publisher being lax in Country X suddenly find themselves getting slightly twitchy emails from legal department in Vauxhall Bridge Road, just for example.

KENNEALLY: (laughter) OK. Well, Daniel, thank you for that question. I want to see if we can get some questions here from the audience. I believe we’re on here. Can I go ahead and use this?



HAHN: Yeah, that's right.

KENNEALLY: That does work. Great. Oh, I suppose if you can do it, sure. OK, thank you very much. OK. So tell us who you are and who your question's for.

M: Hi, my name's Michael (sp?). I'm working towards being a self-published author, and we'll see what else happens. It occurred to me that if I was a coder and if I was sitting on my computer and wrote a wonderful piece of software code, I could patent it. I could protect the ideational value of my idea. Whereas if I'm sitting on my laptop writing a novel, I can copyright the final version that I publish, but I cannot protect my concepts. Why can I do it in software but I can't do it in –

SOLOMON: Well, you can't do it software either. In both of them, you can protect the whole work. Protecting concepts and ideas is a big issue that we don't really have time for. But actually, there is quite a lot of protection for those ideas if they're there in a material form. What you can't do is say to us now, all of us in this room, I've got this great idea for a novel. I'm going to write a book where Daniel Hahn goes out to Orchard Food Market and it all explodes. And then when Daniel thinks, great idea, I'll write that book instead, you can't then protect it because it wasn't given in confidential circumstances. It wasn't in a material form.

M: OK, materiality.

SOLOMON: But there is protection for ideas if you told it to him as a secret, for example.

M: Right. But I mean, the idea of a patent – I couldn't patent the idea, because that's a separate kind of protection from copyright, isn't it?

SOLOMON: But you can't patent all code either. Patents are particularly –

M: You can't?

SOLOMON: – about invention. No.

M: All right. OK, thank you.

KENNEALLY: Thank you for the question. I think we had a question back here? Was it you? Yes, please. So tell us your name and who you're asking.



F: My name is Lynn (sp?), and I'm an illustrator and author, just about to bring out a self-published picture book. I sent it last summer to small publishers who are here, vanity publishers. They saw my work on Instagram, and they asked me about it, and I sent them the manuscript. When I got the contract from them in September, it was terrible. Then I researched them and realized that they were bad, and I just put it aside. I did hang on to it, luckily.

Now, one month before my book is about to come out, they've brought out a children's picture book in rhyming text using the name of my character. So now when you go on Amazon, WHSmith, all of that, if you search for the name of my book, you will get that book first, and it's a rhyming picture book.

Now, I don't know – I haven't got the book yet. I will get it. I'm loath to buy it, but I will do. So I don't know if there's anything else in there that has been copied. If they haven't copied anything else, but they copied the genre and all of that and they've got the name, where do you stand with that?

SOLOMON: I think you should come to my talk on Tuesday. This is not something that we could answer in two minutes. It is, unfortunately, the kind of thing we do and see all the time. And it raises a number of issues that we see – one around vanity publishers, one around the way things get put up on Amazon and the way searching works and the confusion, and the possibility of people, as they do, to put up things with the names of our more famous authors so that people buy them, unfair competition, which doesn't come quite into the whole copyright area. So yes, horribly complicated. Talk afterwards.

KENNEALLY: Yes, indeed. But thank you for the question, and I'm sorry to hear about your experience. Is there one more question from someone here? Yes? Again, tell us who you are and what's your question.

F: Thank you. My name is Ksenia (sp?). I'm a librarian, but also I do some translations because of my job. I have a small question. There is an interesting thing. Sometimes I have to translate someone's speeches, presentations, into English. And people would like to quote some famous people, like Winston Churchill, for instance. When I come across this quote in the native language – some language, Russian, actually – I try to find the English version so that I translate it correctly. So I've done it multiple times. Either I found out that Winston Churchill, for instance, never said that, or some other – I don't know, Aristotle or someone else. So I wonder if there is a way to make sure – and I know



that Winston Churchill has a society that actually you can check on a website which quote is correct, which cannot attributed to him. Is there a general solution to this problem?

KENNEALLY: Well, I have to say, first of all, I saw a quote on Facebook just the other day. It says, you can't believe everything on the internet, and it said Abraham Lincoln said that. So I'm not sure – anyway. I just imagine this is the sort of thing that just –

F: Is there a general way to solve –

KENNEALLY: – it must be mushrooming and growing worse with every day.

HAHN: It happens all the time, and you have to decide what your job is as a translator, whether you want to tidy up this other person's work, whether you want to protect them. It does very often happen I will translate a novel in which the novelist will quote Shakespeare, but the quote isn't quite – it's sort of ish. It's sort of roughly quoting Shakespeare in a way that serves their purpose in their novel. The difference is their readers won't know the quote absolutely backwards. And if I say here we go again into the breach, dear friends, everyone in English will know that that's not actually what's in the play. So I have to decide to what extent I'm going to replicate the effect of the thing that he's doing, or usually in concert with him say I can misquote the way you misquoted, but there's going to be a particular problem in English. If no one in English doesn't know, then frankly, my problem – I mean, that becomes his problem.

But I have had a lot of cases where, for example, a writer I work with a lot – I mean, there was one writer – a Nobel Prize-winning writer who quoted Martin Luther King saying something which was quite like I have a dream, but it wasn't quite I have a dream. It was like I've had a dream, I think is what he said. It was in a slightly different tense. But it needed to to make sense in the thing that he'd written. So I had a choice between either saying we're just going to use the real quote, because everybody in the room and anywhere in the English-speaking world knows what that's supposed to sound like, or I'm going to serve the author and do exactly what the author wants, because there is a reason why he changed it. There isn't an answer, except I spend more time on Google than I spend actually translating, I think, because you're trying to kind of create a kind of body of understanding that allows you to make these right decisions.



Just a very quick example, there is a Spanish writer called Enrique Vila-Matas, another Spanish writer called Agustín Fernández Mallo, both of whom use a lot of kind of embedded quotations in their work and embedded references to other writers. Their translators spend half of their time trying to track down something resembling an authoritative original which they can then build like a kind of collage the new text in English. But yes, it's a nightmare (multiple conversations; inaudible).

KENNEALLY: I'll just complicate that further to tell you that when it comes to Martin Luther King, the family is very strict with regards to what can be used and what cannot be used. They'll be on top of that person right away.

HAHN: Yeah, a little kind of rough paraphrase is not acceptable. But then again, a translation is always a paraphrase of something else. So of course, he's being quoted in other languages, which means he's being quoted in words that are not his words. That's happening all the time. These words are being attributed to him despite the fact that he probably doesn't speak Portuguese.

KENNEALLY: Right. Well, listen, I think we have to end it there. But thank you all for coming. Thank you again, Daniel Hahn, translator, author, member of the Society of Authors, and founder of the translation prize – the TA First Translation Prize – and Nicola Solomon, chief executive, Society of Authors. Thank you.

(applause)

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