

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WARNER BROS. ENTERTAINMENT INC. and	:	
J.K. ROWLING,	:	Index No. 07-CV-9667 (RPP)
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Plaintiffs,	:	
	:	
- against -	:	
	:	
RDR BOOKS and DOES 1-10,	:	
	:	
Defendants	:	
	:	
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DECLARATION OF STEVEN JAN VANDER ARK IN OPPOSITION
TO PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION

Steven Jan Vander Ark declares and states under penalty of perjury that:

1. I am the originator and owner of the Harry Potter Lexicon website (variously, “the Lexicon website,” “the website” or “the site”) at <http://www.hp-lexicon.org>. I am also the author of the book “The Harry Potter Lexicon” (“the Lexicon book”) which is the subject of this lawsuit.

2. I am 50 years old and was, until recently, a resident of the State of Michigan. For most of my career, I have taught school and served as a school librarian at the Byron Center Christian School in Byron Center, Michigan. For the last several months, I have lived in London, where I am trying to start a new career as a writer.

Education and Work History

3. I have a Bachelor of Arts degree in literature and elementary education from Calvin College in Grand Rapids, Michigan. I have taken graduate courses in literacy (teaching children to read and write) at Western Michigan University campus in Grand Rapids, Michigan and in library

science and media center management at Grand Valley State University in Grand Rapids, Michigan.

Development of the Website

4. I first became aware of the Harry Potter books in 1998, while I was working as a media specialist at Byron Center Christian School. The Potter books immediately captured my interest. When I finished reading the second book, “Chamber of Secrets,” I began taking notes on the characters, events and random details which interested me. Since I was a child, it has been my habit to make written notes while reading.

5. In 1999, I joined an online discussion group called “Harry Potter for Grown Ups.” This group consisted of adult readers of the Potter books who would “chat” online about the characters and themes of the books and exchange notes and materials on various details they found interesting.

6. In that same year, 1999, it occurred to me that the notes and materials that I was collecting would be useful and interesting to fans of the Harry Potter books. I then began to prepare the Lexicon website. The website went online in August 2000. At that time, it consisted of 20-25 pages of the material I had been collecting, including encyclopedias of characters, names, places, spells, etc. (By “encyclopedia” I simply mean a collection of explanatory information on a particular subject, in this case, a subject connected with the Potter novels). In the years since, I have continued to develop an encyclopedia of all the characters, places, spells and other details in the Harry Potter works. I worked on the website in my spare time, nights and weekends. It was and remains my hobby.

7. Approximately 10% of the material which has been included in the Lexicon book is “old” – that is, part of the original postings to the Lexicon website when the site was created in

August of 2000. The remaining 90% of the Lexicon book is “new,” consisting of material added to the website in the period since August 2000 -- the additions often coinciding with the release of a new Harry Potter novel. Old or new, everything in the Lexicon book also appears on the website.

8. I have always tried to cooperate with Ms. Rowling and her representatives and licensees. For example, on two occasions, I contacted the Christopher Little Literary Agency, (the agency representing Ms. Rowling) about unusual Potter-related information I had obtained and wanted to include on the Lexicon website. In each instance, the Agency asked me not to post the information in question on my website; in each case, I complied with their request. On two other occasions, Emma Schlesinger of the Christopher Little Agency asked me to remove some material from the website and I did so immediately.

9. Neither Ms. Rowling herself, nor Warner Brothers -- nor for that matter anyone claiming to be associated with Ms. Rowling or Warner Brothers -- has ever complained about any of the material from the Lexicon website that now appears in the Lexicon book. Certainly no one ever demanded that I “cease and desist” using that material on the site.

10. By 2003, the job of managing the website had become too big for me to handle alone, and I began a search for staff members. I tried to recruit people with whom I had exchanged comments and ideas about Harry Potter and the website, people whose abilities and sense of responsibility had impressed me. In this I was successful: currently, I have about ten staff members, all volunteers who work part time and without compensation. Once someone becomes a staff member, I give them access to the website and permission to edit materials at their discretion.

11. In May 2004 I saw on Ms. Rowling’s website a comment about the Lexicon website. She wrote: “This is such a great site that I have been known to sneak into an internet café while out

writing and check a fact rather than go into a bookshop and buy a copy of Harry Potter (which is embarrassing). A website for the dangerously obsessive; my natural home.”

12. By 2005, so much material had been posted on the website that visitors were finding it hard to locate the information they were seeking, and began to complain that the site had become confusing. My staff and I decided to compile an A to Z Index of all our information.

Goals of the Lexicon Website

13. It has been my goal in running the website to present readers of the Harry Potter books with a comprehensive encyclopedia, a single source in which they can find descriptions and definitions of all the characters, places, spells, creatures and physical objects in the world of Harry Potter. Initially, I wrote all the descriptions and definitions myself; after 2003, I wrote them with my staff. As of today, my contributions amount to about 60% of the entries in the website’s encyclopedias, with the remaining 40% provided by my staff, or other contributors, including guest contributors and editors and also fans whose comments and emails have proved useful and informative.

14. My staff and I have used a number of sources in composing the website’s encyclopedias. Some of these are specific to the Harry Potter world; these include information obtained from the Harry Potter books themselves, interviews Ms. Rowling has given to the media or speeches she has given to her fans, newsletters that she wrote for Bloomsbury Publishing in the late 1990s and the Famous Wizard Cards for which she wrote the text. I also have used more general research tools, such as reference works for particular historical periods, “Brewer’s Dictionary of Phrase and Fable,” etymological dictionaries, “Bullfinch’s Mythology,” “The Field Guide to the Little People,” the “New Shorter Oxford English Dictionary” and the Encyclopedia

Mythica website, and others. In my opinion, all these sources can enrich the experience of readers of the Harry Potter novels.

15. The website currently contains a variety of different materials, including (a) essays on various topics pertaining to the books; (b) an atlas of places mentioned in the books; (c) encyclopedias of spells, characters, places and terms; (d) a glossary of unusual words, often British, which appear in the books; and (e) a chapter by chapter reader's guide and commentary on the contents of the books.

16. The Lexicon website always has been a "fan website," that is, a site created by a fan of the Potter books, for the use of other fans of the Potter books. Access to the Lexicon website has always been free and available to everyone: there never has been a fee and/or password needed for entry. The only revenue generated by the site has come from the very limited advertising I allow. About three years ago, I began accepting ads from Amazon.com in return for a payment of approximately \$15 per month. About 18 months ago, I began accepting ads from Google for a payment of approximately \$100 per month. Together, these ad revenues have covered the cost of operating the website.

17. The website is extremely popular with fans of Harry Potter. Currently, the Lexicon website has approximately 350,000 page views per month on its main index page. The number of page views for the entire site is roughly 1.5 million per month. Users come to the Lexicon website from all over the world.

18. The entries on the website must be revised regularly to include new information, interpretations and ideas. Much of this is submitted by fans. Because many fans consider the website to be the standard Harry Potter reference source, they take a personal interest in making sure that the information on the site is correct and up-to-date. Fans send us a steady stream of

emails, suggesting changes to existing entries, debating the correctness of information presented on the Lexicon, offering additional background information, and making other suggestions and corrections.

19. When a fan sends an email to the info@hp-lexicon.org address, it initially is read by one of our staff members, Penny Linsenmayer. Penny will then forward the email to the appropriate editor for action. If the editor in question decides that the email justifies a new entry or page, we announce that fact on the “What’s New” page, where we provide a comment feature so that readers can add their own comments about the change. Readers catch errors, discuss wording, suggest additional information, and make other constructive criticism of the entry or page.

20. The editor responsible for the new entry or page monitors and often participates in these discussions, and incorporates suggestions and criticisms into edits of the entry. The finished entry or page might go through four or five revisions in the days after it is first posted as the discussion goes on. As time goes by, entries may undergo other revisions to incorporate reader input, including new information, fixes for mistakes, clarification of the writing, or adding background information. Every page has two dates on the bottom: the date that page was created and the date it was last updated. Every page has been updated many times over the life of the website through this process of collaboration and fan review.

21. As this description suggests, fans are not the only motor for revising the website. Editors themselves will often make changes and additions, sometimes from their own re-reading of the Potter books. In making these revisions, the editors may refer to their own notes as a starting point, or they may refer to online sources of background information and discussion; such sources, well known in the fan community, include Harry Potter for Grown-Ups, the Leaky Lounge, and the

Lexicon Forum. Once the editor posts his or her new entry, it will be announced on the “What’s New” page, and become a subject for fan discussion and debate.

22. The scope of this undertaking often surprises me. The editors and volunteers of the Lexicon are located all over the United States, Europe, and Asia. The fans who contribute comments and send emails are located all over the world. Given their different points of view, and the amount of new information that seems always to arise, I suspect that the Lexicon website will remain in a constant state of revision, reflecting the new research and insights of its readers.

The Idea of Publishing a Lexicon Book

23. For some time, I had been considering using some of the material such as the Reader’s Guides from the Lexicon website for a book. A number of other Harry Potter reference books had been published and I thought the material on the Lexicon website would also make a good reference guide. Beginning in about 2003, I received regular requests from fans for printed copies of the Lexicon website, proof of a demand for a print version.

24. At the same time, a number of people contacted me with proposals for using the material on the Lexicon website in a printed encyclopedia. For a considerable time, I declined these suggestions, although it was plain that an audience for such a book existed. There were two reasons for this. First, until the summer of 2007, Ms. Rowling had not completed the series of Potter books, so that any encyclopedia published before that point would be incomplete. Second, until August 2007, I believed that an encyclopedia, in book form, would represent a copyright violation. This was an assumption on my part, however, as a layperson. In the emails I sent to people who enquired about publishing a book about Harry Potter, I expressed my opinion based on that assumption.

25. The first of these considerations – the incompleteness problem – ceased to be a concern in the summer of 2007, when the last book in the Potter series was released. For this reason, by the late spring of that year, I was thinking more seriously of publishing a book.

26. In the spring of 2007, I began to make preparations to move to London. I was hoping to obtain a work visa, which meant that, under British law, I would have to find a company to sponsor me. Toward that end, I tried by phone and email to contact the Christopher Little Agency. I also wanted to ask about my ideas for using the material on the website for a book, possibly a reader's guide of some kind. Before visiting London in July of 2007, I requested a fifteen-minute meeting with the Agency to discuss both the work visa and the possibility of using material from the Lexicon for a book and was told they didn't have time. I made no further plans for a book until Roger Rapoport of RDR Books contacted me.

Dealings with RDR Books

27. As I've indicated, Ms. Rowling released the final novel in her Potter series in July 2007. In August 2007, I received a phone call from Roger Rapoport of RDR Books, who told me he had seen an article in the Muskegon Chronicle about the Lexicon website. He asked me to meet him and, later in August, we met for lunch in Grand Rapids to discuss publication of a book from materials on the website. This meeting was followed by several more, over the next few weeks.

28. During our initial meetings, Roger told me that, to his mind, the encyclopedia entries would be the best subject for a book. I raised the question of whether such a book would create copyright problems, and Roger said he would check with an expert. By the middle of August, Roger told me that he had spoken with a person who was very knowledgeable about copyright law, and had been told that publication would be legal. While I accepted this judgment, because I was relying on Roger's assurance that we could legally publish the book, I asked that a clause be put

into the contract, which required RDR Books to defend and indemnify me in the event of any lawsuits. Roger agreed, and on August 21, 2007 RDR Books and I signed a contract – which included an indemnification clause - for the publication of a book entitled “The Harry Potter Lexicon.” We orally agreed that the book would be limited to the encyclopedia sections of the Lexicon website, the sections which gave descriptions and commentary on individual names, places, spells, creatures, and things from the Harry Potter stories.

29. At the time I signed the contract with RDR Books, I knew of a number of books on the market that were similar to the book I wanted to publish. Three of these books were encyclopedias: (i) “Fact, Fiction and Folklore in Harry Potter’s World” by George Beahm, (ii) “An Unofficial Muggle’s Guide to the Wizarding World: Exploring the Harry Potter Universe” by Fionna Boyle, and (iii) “Magical Worlds of Harry Potter” by David Colbert. A fourth book, “The Unofficial Harry Potter Encyclopedia: Harry Potter A-Z,” by Kristina Benson, was more than “similar” to the book I wanted to create; Ms. Benson’s book, in places, appears to have copied the text of the Lexicon website’s encyclopedia entries almost word for word. So far as I know Ms. Rowling had never objected to publication of any of these books.

30. After signing the contract, in August 2007, I began drafting the Lexicon book. Although all of the material in the book comes from the Lexicon website, the drafting of the book involved more than cutting and pasting materials from the website into book form. On a website, material concerning a single subject may be widely dispersed; visitors to the site can locate the dispersed material through devices such as “links” and a search engine. These devices, however, are not available in a book, and for that reason, related material in a book must be gathered together and presented in a more traditional order. The order we chose for the Lexicon book was the

familiar structure of the alphabet – an “A to Z” sequence of information, in which each successive page would include entries further down the alphabet than the page before.

31. There is a second important difference between a web-based encyclopedia, and one in book form: a website can hold a much larger volume of material than a standard commercial book. By the summer of 2007, our website held an enormous amount of information, a volume that was much too great to be transferred, *in toto*, to the book. Space limitations, in other words, forced us to be selective. For this reason, we did not include a considerable amount of material from the site – most particularly quotes and artwork – in drafting the book.

32. Certain material in the book did not previously appear on the website – information about the seventh and final Potter novel, “Harry Potter and the Deathly Hallows.” At the time I began composing the Lexicon book (August 2007), the seventh Potter novel had just been released (July 2007), and very little information about the novel had been posted to the website. For that reason, material involving the “Deathly Hallows” book was written simultaneously for the Lexicon book and the Lexicon website.

33. We completed composition of the Lexicon book on September 15, 2007. In its completed form, the book contains about half the content of the website. The material in the Lexicon book is not qualitatively different from related material on the website. The differences rather are quantitative: entries in the book are often condensed versions of corresponding sections of the website.

The Value of the Lexicon Book to Harry Potter Fans

34. I believe that the Lexicon book would be extremely useful to fans of the Harry Potter novels. There are seven Harry Potter novels, published over a period of ten years. Together, the novels refer to hundreds of characters, creatures (both real and fanciful), places (both real and

fanciful), spells, objects and devices (some of them magical). Not every character or creature appears in every novel. A character may appear in the first book, and then disappear until the fifth or sixth book. This presents a problem for the reader, who may, for example, wonder on reading “Harry Potter and the Order of the Phoenix” (published in 2003) where he or she previously encountered character Dedalus Diggle, a name last mentioned in “Harry Potter and the Philosopher’s Stone” (published in 1997). Memory alone may be insufficient to answer this question. The Lexicon, however, can quickly provide the answer.

35. The Lexicon, however, is far more than merely a memory aid. Even readers with superior memories may not automatically appreciate the richness of the names and cultural references that Ms. Rowling has dropped throughout her novels. The Lexicon book, which incorporates material from distinguished reference works, points this out. In doing so, it enhances the pleasure of readers of the Potter novels, and deepens their appreciation of Ms. Rowling’s achievement.

36. My staff and I composed the text of the Lexicon book. It is true that, in a few places, the book employs phrases or sometimes whole sentences that are similar to phrases or sentences in the Potter books (a point made by one of plaintiffs’ witnesses, Diane Birchall). In those cases, however, the similarity in language was unavoidable: the particular phrases represented the only reasonable way to describe the subject at hand. The problem arose in connection with the identification of proper nouns, that is, specific characters, places or spells. In those cases, the Lexicon’s description had to incorporate language similar to the novels, simply to make clear what was being described. The alternative would have been to employ very artificial devices, such as nicknames, substitute names, or vague and generic descriptions of the things described. Doing so, however, would have interfered with the mission of the Lexicon, which is to clarify, not to confuse

the readers of the novels. In any event, the Lexicon book does not use any more of Ms. Rowling's work than is reasonably necessary to identify the names, characters, places, spells etc. of the Harry Potter books.

37. In my eight years running the website, I have developed a very deep knowledge of the "Harry Potter community." This knowledge comes, first from my exchanges with visitors to the site itself, second from the many Harry Potter conventions at which I regularly speak (about ten over the last three years), third, from the many "Harry Potter" activities in which I engage (tours of Harry Potter sites, appearances at university discussions, dealings with the press etc.), and fourth, from my wide reading about all aspects of the Harry Potter world (I believe I have read every publicly available interview that Ms. Rowling has given).

38. Over the past several years, I have gained widespread recognition as an expert on the Potter world. I have been interviewed about various Harry Potter subjects by the School Library Journal, Time magazine, the BBC, The New York Times, The Detroit Free Press, The Grand Rapids Press, McLean's magazine (a Canadian publication) and several other publications whose names I do not recall. I also have appeared on NBC's Today Show to discuss subjects involving Harry Potter. In the spring of 2007, I was asked to appear in a documentary for Arts and Entertainment cable network entitled "The Hidden Secrets of Harry Potter." I was one of three experts shown in that documentary discussing the Harry Potter series. "The Hidden Secrets of Harry Potter" was included on the DVD of "Harry Potter and the Order of the Phoenix" as one of the extra features.

39. In September of 2006, I was told by David Heyman, the producer of all the Harry Potter movies, at Leavesden Studios in Britain, that the filmmakers use the Lexicon website almost every day. I met Mr. Heyman because I had been invited by plaintiff Warner Brothers

Entertainment, Inc. to visit the sets of the film “The Order of the Phoenix,” which was then being filmed. In July of 2007, I visited the studios of Electronic Arts in Guildford, England, at which the Harry Potter videogames are made. There I saw, posted on the walls, many printouts from the Lexicon website, including maps, timelines, and pages from the reader’s guide. Finally, after the release of the sixth Harry Potter book, I received a hand-written thank you note from Cheryl Klein (one of plaintiffs’ witnesses), who thanked me and my staff for the help the website gave Scholastic Publishers during the book’s editing process. A true and correct copy of this note is attached as Exhibit 1 to this declaration.

40. Based on my experience, I can provide some insight into plaintiffs’ contentions in this case, both their most general points, and the specific allegations of their witnesses. First, I point out the obvious: when Ms. Rowling releases a book in the Harry Potter series, it receives a great deal of publicity. Harry Potter fans know what Ms. Rowling writes and what she does not write. In my opinion, there is almost no chance of consumer confusion regarding the Lexicon book, i.e., the typical Harry Potter fan believing that Ms. Rowling authored the Lexicon book.

41. Second, the sole purpose of the Lexicon website and the Lexicon book is to encourage fan interest in, and to serve as a reference to, the Harry Potter works. They are intended to complement, serve as a reader’s aid to and add understanding and enjoyment of the Harry Potter books. The Lexicon book cannot be financially successful or profitable if the Harry Potter works are not financially successful or profitable. The Lexicon book cannot be a substitute or a replacement for the Harry Potter works because its content would be meaningless to one who was unfamiliar with the names, characters, spells, events, places and storylines in the Harry Potter works.

42. I do not believe there is any chance that the Lexicon book will reduce consumer demand for the Harry Potter works. The fact that the Harry Potter series has been and continues to be a huge financial and literary success even though the reference guides mentioned above have been or currently are on the market indicates to me that the publication of the Lexicon book will have no effect on the series' continued popularity and financial success.

43. I do not believe that the publication of the Lexicon book will reduce the demand for a similar type of book written by Ms. Rowling. I believe that Harry Potter fans will buy a similar work written by Ms. Rowling even if they have purchased a copy of the Lexicon book because her fans are very loyal to her and will always want what she writes. Also, Ms. Rowling has stated in interviews that her reference guide will include much additional information about the characters which only she knows. For this reason, her guide obviously will be different and more complete than the Lexicon book or other reference guides and will stand alone in the market as the definitive guide to the Harry Potter series. More than this, her new material will tend to make any previous books obsolete. Furthermore, Ms. Rowling's contention that she wants to be the first to publish such a book is irrelevant because there are already many books of this kind on the market; neither the Lexicon book nor Ms. Rowling's will be first.

Response to Plaintiffs' Witnesses

44. I have read the various declarations submitted by plaintiffs' witnesses in this case. Many of them make assertions about the Lexicon that, in my judgment, are unfair and/or inaccurate. I refer to the most serious cases below:

a. Emily Blumsack, a lawyer at the law firm representing plaintiffs, states in her declaration that "[u]pon information and belief, other books about the Harry Potter series that are on the market, unlike the Infringing Book, generally contain analysis, commentary, criticism or

other original contributions,” and that “[t]he contrast . . . between the content of these books as compared to the content of the Infringing Book could not be clearer.” (Blumsack Declaration, paragraphs 6-7). She then goes on to describe three of these books, including “Muggles and Magic: An Unofficial Guide to J.K. Rowling and the Harry Potter Phenomenon” by George Beahm, “Beacham’s Sourcebooks for Teaching Young Adult Fiction: Exploring Harry Potter” by Elizabeth D. Schaefer, and “If Harry Potter Ran General Electric: Leadership Wisdom from the World of Wizards” by Tom Morris.

(1) The books listed by Ms. Blumsack have obviously been carefully chosen to exclude the several available Harry Potter encyclopedias that closely resemble my own Lexicon book. These include: (a) “Facts, Fiction and Folklore in Harry Potter’s World” by George Beahm, (b) “The Unofficial Harry Potter Encyclopedia” by Kristina Benson (a book that takes much of its content from the Lexicon website), and (c) “The Field Guide to Harry Potter” by Colin Duriez which includes an A-Z glossary and a timeline. Other examples of encyclopedias that have been published are “The J.K. Rowling Encyclopedia” by Connie Ann Kirk and “An Unofficial Muggle’s Guide to the Wizarding World” by Fionna Boyle. So far as I know, Ms. Rowling has never attempted to enjoin the publication or distribution of these works.

b. Neil Blair, an attorney and junior partner at Christopher Little Literary Agency, states in his declaration that “(w)hen necessary, I have worked with these fan (web)sites to remove material that crosses the line and infringes Ms. Rowling’s work, without disturbing non-infringing material.” (Blair Declaration, paragraph 7). Mr. Blair has never asked me, and to the best of my knowledge has never asked any member of the staff of the Lexicon website, to remove any of the material from the website which is now part of the Lexicon book, indicating that he does not find that material to be infringing.

c. Diane Birchall, a story analyst for Warner Brothers, states in her declaration: “(m)any of the entries through the Lexicon (book) consist of long, detailed prose summarizing extensive portions of the plot of the Harry Potter books.” (Birchall Declaration, paragraph 5). As examples, she provides entries describing the main characters in the Potter books: Harry Potter himself, Voldemort (the chief villain in the books), and Severus Snape (one of the key characters in the books). These again obviously have been carefully chosen to support plaintiffs’ argument: one would *expect* the longest entry in an encyclopedia about Harry Potter to address Harry himself, just as one would expect the longest entries in an encyclopedia about “Gone With the Wind” to address Scarlett O’Hara and Rhett Butler. In fact, most of the entries in the Lexicon are concise - no longer than a short paragraph. When entries *are* longer than a paragraph, it is always because the matter being described requires longer treatment, either to unpack the richness of Ms. Rowling’s writing or to provide information about how the matter in question fits into the overall story of the books. Moreover, the most detailed descriptions and summaries, including those referred to by Ms. Birchall, have been present on the Lexicon website for years and have never prompted Mr. Blair, or anyone else acting on Ms. Rowling’s behalf, to ask me to have the material removed.

(1) Ms. Birchall also asserts that, “(f)or other entries, the Lexicon makes use of extensive paraphrasing that is alarmingly similar to the Harry Potter text, however few citations are provided.” (Birchall Declaration, paragraph 7). This is incorrect for several reasons. First, the entries in questions are not “paraphrasings” – in each case, they were written by me and my staff. It is true that, in some cases, they contain words and phrases that are similar to those in the Potter books, but – as I earlier explained – that is because the nature of what was being described required that subject and description used similar language. In addition, the contention that “few citations

are provided” is simply wrong: citations to the title and chapter of the relevant Potter book(s) are provided for each entry in the Lexicon.

(2) Ms. Birchall also states that “(m)any of the entries quote verbatim (sic) lengthy portions of the Harry Potter books.” (Birchall Declaration, paragraph 8). This again is incorrect. To demonstrate her point, Ms. Birchall cites three examples, each describing a poem or song. These entries (like all the entries cited by Ms. Birchall) are completely atypical. It is impossible to adequately describe a poem or a song without quoting at least a small amount of the text in order to identify and define the subject of the inquiry.

(3) Ms. Birchall also states that no outside sources were used in the writing of the Lexicon book. This is incorrect. Many sources besides the Harry Potter books were used. These include research tools such as reference works for particular historical periods, “Brewer’s Dictionary of Phrase and Fable,” etymological dictionaries, “Bullfinch’s Mythology,” “The Field Guide to the Little People” and other guides and bestiaries of imaginary and legendary creatures, the “New Shorter Oxford English Dictionary,” websites such as the “Encyclopedia Mythica” and others. It is the goal of the Lexicon website and book to provide insight into the richness of Rowling’s writing by noting the underlying research and planning that went into creating Harry Potter’s world. For example, Rowling states: “To invent this wizard world, I’ve learned a ridiculous amount about alchemy. Perhaps much of it I’ll never use in the books, but I have to know in detail what magic can and cannot do in order to set the parameters and establish the stories’ internal logic.” (Simpson, Anne. “Face to Face with J K Rowling: Casting a spell over young minds,” *The Herald*, 7 December 1998). The Lexicon book strives to illuminate for readers of the Harry Potter books the kind of research and preparation the author used, which greatly enhances the reader’s appreciation and understanding of the stories themselves. We constantly referred to outside sources

to learn where the many details of Rowling's stories originated. Examples of how the Lexicon book uses these outside sources to show the richness of Rowling's world and her background research:

Greyback, Fenrir

Werewolf, low-level Death Eater, and friend of the Malfoy family. He killed for fun and especially enjoyed infecting children. ...

Fenrir comes from 'Fenriswolf,' 'Fenrisulv,' 'Fenrisulf' the gigantic wolf of the God Loki in Scandinavian mythology.

Gytrash

The Gytrash is a huge, spectral hound that lives in forests. The Gytrash, in the form of a huge dog, horse, or mule, haunts solitary places; it is found in the folklore of Northern England

(CS/g).

Hanged Man, The

The "village pub" in Little Hangleton, this is the place where the villagers gathered the night Tom Marvolo Riddle killed his father and grandparents, to gossip about the murders.

Among the villagers present that evening were the Riddles' cook and Dot, who remained permanently convinced that gardener Frank Bryce was to blame for the deaths (GF1). The Hanged Man is the name of a card found in a Tarot fortune telling deck. It signifies that a questioner is trapped or stuck in a position, perhaps between opposites.

Floo Network

...

The Floo Network is made up of various wizarding fireplaces all over Britain.

....

flue Eng. originally meant "chimney," but now means any duct for allowing heat or hot gases to escape from a heating device [NSOED]

Weird Sisters

A musical group, very popular on the WWN. They are a group of eight musicians who sing and play drums, several guitars, a lute, a cello, and bagpipes (fw). They were quite hairy and wore artfully ripped black robes when Harry saw them at the Yule Ball (Dumbledore had booked them to play) (GF23).

"The weird sisters" is a term from Shakespeare's Macbeth, referring to the three witches who accost Macbeth and foretell the future when they hail him as "king hereafter." Also, in Norse mythology, there are three sister-goddesses of fate - the Norns - who are also referred to as the Wyrd Sisters. The archaic term "wyrd" means "fate" or "destiny."

Von Nettesheim, Heinrich Cornelius Agrippa

(1486 - 1535)

Though a talented wizard, Agrippa was imprisoned by Muggles who feared his writing (fw). When he started Hogwarts, Ron had every Chocolate Frog Card except this one and Ptolemy's (PS6).

In the Muggle version of history, Agrippa was a German soldier and physician, and an adept in alchemy, astrology, and magic. In his book De Occulta Philosophia (1531), Agrippa encouraged the study of magic, explaining the world in terms of cabalistic analyses of Hebrew letters and Pythagorean numerology; he believed that magic was the best means to know God and nature.

Specific Qualities of the Lexicon Book

45. Entries in the Lexicon book are created by gathering and synthesizing information from all over the thousands of pages of the stories, plus other sources of information given by Rowling. The facts gathered are given citations to show where they were found within that wealth of information. These citations are found in parentheses, with a chapter number where applicable. Page numbers are excluded because the various editions of the Potter books have different pagination. I provide below some examples of this kind of entry:

a. The character description of "Rubeus Hagrid" in the Lexicon book is an excellent example of the way information is collected and synthesized from all over the series. The description of this character in the Lexicon book was written by my staff or by me and the background information was obtained from each of the books in the Potter series with the specific book noted at the appropriate point. The following is a representative section of the entry about Hagrid:

His acromantula, Aragog, is not the only "interesting creature" that has attracted Hagrid's attention; he has since been known to attempt to raise a dragon (PS14), illegally breed Blast-Ended Skrewts (GF13), and hide his giant half-brother, Grawp, in the Forbidden Forest (OP30), in addition to his "normal" creatures like his pet boarhound, Fang. His fascination with such creatures has gotten him in trouble at times as a teacher, such as a lesson on hippogriffs that led to Draco Malfoy getting slashed (PA6) and a lesson on thestrals, which Umbridge notes are classified as "dangerous" (OP21). In such cases Hagrid tends to lose his confidence and his nerve, and his classes turn boring for long periods of time (PA8). From the moment he was sent to retrieve Harry for his first year at Hogwarts, Hagrid and Harry Potter became friends, and have remained so ever since. Harry, Ron, and Hermione visited Hagrid's hut regularly while in school (OP20), and Hagrid has served several times as a bodyguard for Harry (HBP6, DH4). When Harry was on the run from the

Ministry of Magic, Hagrid also threw a ‘Support Harry Potter’ party in his house, and was nearly arrested (DH22). Rowling chose Hagrid’s name because of an old English dialect word, “meaning you’d had a bad night. Hagrid’s a big drinker. He has a lot of bad nights” (Con). Yet despite his flaws, as his open bawling at Dumbledore’s funeral attests (HBP30), Hagrid is just about as genuine as they come.

The citations in parentheses are abbreviations of the particular Potter book with the chapter number from which that fact is drawn. For example, the citation “(PS14)” in the second line refers to the fourteenth chapter of the book *Harry Potter and the Philosopher’s Stone*, which is where that fact came from. In the passage given above, seven different sources are cited from all through the book series and from other sources as well. The citation “(Con)” near the end refers to an interview with Rowling on “The Connection,” a radio show. This demonstrates how we have gathered facts from outside of the books themselves, from sources less familiar or accessible to the average reader. A full list of the citations used is found in the introduction to the book.

b. The Lexicon book contains a short, single sentence entry on the minor character of Marlene McKinnon:

McKinnon, Marlene

(d. July 1981)

A member of the Order of the Phoenix in the 1970s, Marlene and her whole family were killed by Voldemort’s supporters (PS4, OP9), including Travers (GF30), shortly before Voldemort’s downfall (DH10).

Even in that one short sentence, facts are drawn from four different books in the Potter series. This demonstrates the way in which the Lexicon book adds understanding for a reader by pulling together and making connections between information from all through the thousands of pages of the original material.

c. The Lexicon also contains numerous character analyses, which are original essays written by me or my staff. These entries comment on, analyze, and make observations about key characters in the Potter series. For example:

Longbottom, Neville

A Gryffindor, but Neville's bravery is a different sort than Harry's. It is the bravery of children who keep trying even though they have repeatedly failed in the past. It is the bravery of the unpopular child who never succumbs to peer pressure, even from friends. And it is the bravery of a person who doesn't parade their personal tragedies even when it might make their life easier. Even during his most embarrassing blunders, Neville maintained a quiet dignity that eventually made him an effective leader. When Dumbledore awarded last minute points to Gryffindor their first year, he saved Neville's for last, making him the hero breaking the tie with Slytherin and winning the House Cup for Gryffindor (PS17)

Lovegood, Luna

Interestingly, Luna seems to be more serene and composed than most of her peers. She often stares off into the distance and seems detached from what is going on around her. Her deeply-held beliefs, although not understood or accepted by those around her, do give her a certain dignity

Also:

She was fond of reciting the phrase that is inscribed on the diadem: "Wit without measure is man's greatest treasure." Perhaps in Luna's case, the phrase would be better quoted as "Wit and faith and love are man's greatest treasure. (OP10)" Luna possesses all of these without measure and has proven to be a treasure indeed.

Malfoy, Draco

It is difficult to determine Draco's relationship with his parents. He is certainly spoiled, judging by the way he bullied Lucius, his father, into buying him a racing broom and by the large amounts of sweets and other gifts he receives from home on an almost daily basis. His mother does care about him, enough anyway to nix the idea of his traveling far away to attend Durmstrang instead of Hogwarts (GF11), and she was frantic when she found out that Voldemort had a special plan in mind using Draco (HBP2).

46. Many of the words and names, which appear in the Harry Potter series, have meanings derived from other languages, mythology, and other sources. Rowling uses these words and their derivations deliberately, but does not give that background information in the Harry Potter books themselves. I provide below some examples of this kind of entry:

- a. “legillimens,” a spell.

Legilimens (le-JIL-i-menz)

“*legens*” *L. reader* + “*mens*” *L. mind*

Incantation for performing Legilimency (OP24). This term is also used for a wizard who has learned the art of Legilimency, sensing the thoughts of another person. Dumbledore and Snape are both experts at this form of magic (OP37). Voldemort is also an accomplished Legilimens (HBP2).

Included in the explanation are the pronunciation and the source of the word, neither of which are given in the Harry Potter books. In this case, the word comes from Latin words that suggest the action of the spell in Rowling’s book, reading someone’s mind. Again, it’s worth noting that three citations are given even in this short entry, citing facts from three widely separated places in the books. It’s also worth pointing out the facts only lead a reader back to the books themselves. Voldemort is listed here as a Legilimens, but a reader will want to go to the cited place in the books, the second chapter of *Harry Potter and the Half-Blood Prince*, to find out what happens in that part of the story to tell us that fact. The Lexicon book is always a reference guide to the original, not a replacement for it.

b. Draco Malfoy, the name of a character in the series, has an interesting connection to his personality. Malfoy is a bully who picks on other students. The sources of his name are Latin and French, as shown in the extract from his entry:

Malfoy, Draco

(b. 5 June 1980; Slytherin, 1991; Quidditch Seeker 1992-1995; Prefect, 1995; Inquisitorial Squad)

Draco Malfoy is the son and only child of Lucius and Narcissa Malfoy and was a student at Hogwarts in the same year as Harry Potter. He is a rival of Harry, actively trying to undermine him in any way he can. Draco has white-blond hair and a pale, pointed face... “*Draco*” is Latin for ‘dragon’. “*Malfoy*” is French for ‘bad faith’

47. For many entries, either I or my staff have added additional editorial comments to entries to explain or add information. I provide below some examples of this kind of entry:

a. The entry for “Tottenham Court Road” in London, copied below, includes comments about the perceived significance of Tottenham Court Road to the Potter story line written by my staff or by me italicized. These comments are in italics after the main entry.

Tottenham Court Road

When the Ministry of Magic fell in the middle of Bill and Fleur’s wedding celebration and the Burrow was bracing for attack, Hermione grabbed Harry and Ron and Apparated to the first place she thought of – Tottenham Court Road. Here they changed clothes and ducked into a café, where they were soon unexpectedly ambushed by Death Eaters. After handling that crisis, they Apparated to the relatively safer Grimmauld Place instead (DH9).

It’s interesting that this was the place that “popped into” Hermione’s head. The Tottenham Court Road underground station is adjacent to Charing Cross Road, home of the Leaky Cauldron. It’s possible that this was the station she and her parents would have used to reach Diagon Alley, and also the station used by Harry and Hagrid when they visited prior to Harry’s first year (PS5).

b. The entry for ‘parchment’, written by me and copied below, also includes this kind of editorial aside, in this case making a humorous point:

parchment

Wizards write on scrolls of parchment, rather than Muggle paper (OP3). *Actual parchment is very thick and heavy, made from the skin of sheep or goats. With the rate they go through parchment in the wizarding world, someone must be raising and skinning a lot of sheep.*

c. The entry for “waddiwasi”, written by me or my staff, shows the kind of analysis that we include in the book of the internal ‘logic’ Rowling implies for the Harry Potter universe:

Waddiwasi (wah-di-WAH-see)

"vadd" Swedish. a soft mass + "vas y" Fr. go there

A useful spell that Lupin used to shoot gum out of a keyhole and up Peeves’s nose (PA7).

Some magic theory here, because we’re geeky enough to try to work this stuff out:

The "useful spell" that Lupin was showing them was undoubtedly the "wasi" part, in this case with a target word attached, "wad." Again we see how important intention is to magic, since the wad was directed into Peeves' nose by intent with the "go there" part of the spell.

In another situation, the spell might be "stolawasi" to send a robe into a student's trunk, but it would only work if the student focused his mind on where he wanted the robe to go.

d. The entry for 'Rennervate', copied below, includes commentary about how the name of the spell has been altered in later books, which can be confusing for a reader and which gives some sense of the changes in the text over the years Rowling was writing her books.

Rennervate (REN-er-vayt)

"en-" Old French from "in-" L. cause to be + "nerves" Eng. c.1603 strength, from "nervus" L. nerve

Spell used to revive a person who has been hit by a Stunner (GF9, GF28, GF35). In early editions of GF, the spell was written *Ennervate*.

e. In some cases, the Lexicon website and book include notes about errors in the text of the books. Some of these mistakes have been corrected in later editions of the books. The Lexicon website includes an 'open letter to J.K. Rowling' which asks questions about some of these inconsistencies. Rowling has answered some of them in responses on her website and others subsequently have been addressed in the books themselves. Examples of these errors as noted in the Lexicon book:

Fawcett, Miss S

(b. 1980; Ravenclaw, 1991)

Possibly part of the Fawcett family of Ottery St. Catchpole. Attended the Dueling Club in 1992 (CS11) and the Yule Ball in 1994 (GF23). For a short time she had a long white beard, thanks to trying to cross Dumbledore's Age Line to put her name in the Goblet of Fire despite being underage (GF16). *There is a discrepancy between the British and American first editions of Goblet of Fire. In the first British edition, we read "'Ten points from Hufflepuff, Fawcett!' Snape snarled as a girl ran past him." In the most recent American edition, Snape deducts her points from Ravenclaw (GF23).*

Again, in the entry for Adalbert Waffling:

Waffling, Adalbert

(1899 - 1981)

Adalbert was the author of *Magical Theory* (fw).

The dates given for Waffling do not work when we learn in DH that Dumbledore corresponded with him while in school. Dumbledore had left Hogwarts by the time Waffling was born, according to these dates.

48. Attached as Exhibit 2 is a true and correct copy of the list of abbreviations and entries A through E of the Lexicon manuscript, as it was sent to the typesetter in September 2007.

49. Attached as Exhibit 3 is a true and correct copy of the entries F through K of the Lexicon manuscript, as it was sent to the typesetter in September 2007.

50. Attached as Exhibit 4 is a true and correct copy of the entries L through Q of the Lexicon manuscript, as it was sent to the typesetter in September 2007.

51. Attached as Exhibit 5 is a true and correct copy of the entries R through Z of the Lexicon manuscript, as it was sent to the typesetter in September 2007.

52. Attached as Exhibit 6 are the Lexicon manuscript entries for McGonagall, Minerva and Potter, Harry James, completed after the manuscript was sent to the typesetter.

53. Attached as Exhibit 7 are additional “D” entries to the Lexicon manuscript, completed after the manuscript was sent to the typesetter.

54. Attached as Exhibit 8 are additional changes and additions to the manuscript, completed after the manuscript was sent to the typesetter.

55. Attached as Exhibit 9 are additional changes and additions to the manuscript, completed after the manuscript was sent to the typesetter.

56. Attached as Exhibit 10 is a true and correct copy of edits to the manuscript entries A through E, completed after the manuscript was sent to the typesetter.

57. Attached as Exhibit 11 is a true and correct copy of edits to the manuscript entries F through K, completed after the manuscript was sent to the typesetter.

58. Attached as Exhibit 12 is a true and correct copy of edits to the manuscript entries L through M, completed after the manuscript was sent to the typesetter.

59. Attached as Exhibit 13 is a true and correct copy of edits to the manuscript entries R through Z, completed after the manuscript was sent to the typesetter.

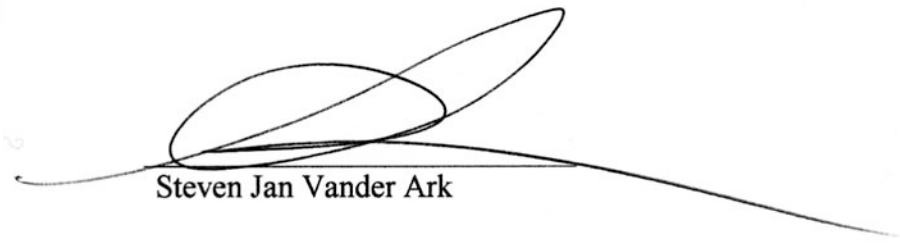
60. Attached as Exhibit 14 is a true and correct copy of the typeset version of the Lexicon, entries A through D.

CONCLUSION

61. I have written about the Harry Potter books for eight years. I have done so because I love the books, and respect Ms. Rowling's achievement in creating them. I established the Lexicon website, and later composed the Lexicon book, to help other fans understand the Harry Potter novels more deeply. Ms. Rowling herself has recognized that the website achieves this end. The same service is provided by the Lexicon book, which is taken from the website. I urge the Court to permit publication of the Lexicon book. Fans of Harry Potter, and ultimately Ms. Rowling herself, will only benefit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: London, England
February 7, 2008



Steven Jan Vander Ark