

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WARNER BROS. ENTERTAINMENT INC. and
J.K. ROWLING,

Plaintiffs,

-against-

RDR BOOKS and DOES 1-10,

Defendants.
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Case No. 07-CV-9667 (RPP)

**DECLARATION OF J.K. ROWLING IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, J.K. Rowling, declare and state as follows:

1. I am the author of the *Harry Potter* book series (the "*Harry Potter* Books" or "*Books*"). Except for the facts stated on information and belief, all of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.
2. I have read the papers submitted by RDR Books ("RDR") in opposition to Plaintiffs' Motion for Preliminary Injunction. I am deeply troubled by the portrayal of my efforts to protect and preserve the copyrights I have been granted in the *Harry Potter* Books and feel betrayed by Steven Vander Ark, as a person who calls himself a fan.
3. I am particularly concerned about RDR's continued insistence that my acceptance of free, fan-based websites somehow justifies its efforts to publish for profit an unauthorized *Harry Potter* "lexicon" directly contrary to my stated intention to publish my own definitive

Harry Potter encyclopedia. Such a position penalizes copyright owners like me for encouraging and supporting the activities of their respective fan communities. If RDR's position is accepted, it will undoubtedly have a significant, negative impact on the freedoms enjoyed by genuine fans on the internet. Authors everywhere will be forced to protect their creations much more rigorously, which could mean denying well-meaning fans permission to pursue legitimate creative activities.

4. In my opinion, 99% of *Harry Potter* fans are acting entirely in good faith, and as I have excellent relations with many members of the fan community, I find it devastating to contemplate the possibility of such a severe alteration of author-fan relations. I continue to believe that the online fandom has been a wonderful experience for thousands of people, myself included; that it has become, not only an enormous global book club, but engendered an explosion of creativity and communication rooted in a world we would all like to inhabit.

5. As indicated in my prior declaration, I have stated on my website, in numerous interviews in the press and elsewhere that I intend to publish a definitive guide to all of the creatures, characters, places, and other elements that comprise the *Harry Potter* world. Just as I did with the first two companion books, I intend to donate royalties from such a companion book to charity. The Bloomsbury and Scholastic lexicons will be available to me as I write my own encyclopedia. In fact, the Bloomsbury version already has been given to me at my request as I am in the process of assembling and organizing materials from which I will work. Naturally this means that my encyclopedia will contain all information in the published books. To suggest that I would omit from my encyclopedia the information already made available in the novels, can only spring from a willful misinterpretation of a selective quotation.

6. It has been well-known within the fan community for years that I intended to write my own Harry Potter encyclopedia. Mr. Vander Ark, as a member of that community, has also been long aware of my intentions as demonstrated in the exhibits annexed to the declarations of Neil Blair and Cheryl Klein (supplemental) submitted in this case. It is extremely disheartening to me that, despite his knowledge of my plans, Mr. Vander Ark intends to proceed with the publication of his Harry Potter "lexicon."

7. In spite of my repeated assertion that I intend to write this encyclopedia, and the preliminary work I have already undertaken, Mr. Vander Ark and RDR suggest that I ought to provide a timeline to demonstrate my sincerity. As I have already promised and then delivered seven *Harry Potter* books, plus two extra books for charity, I do not think that any reasonable person would question my good faith in this regard. I fully intend to write this encyclopedia, however, after ten years of deadlines, coupled with intense pressure from media and fans, plus the demands of a young family, I am not prepared to commit to another deadline a bare seven months after the publication of my last book. I do not believe I should be forced to make such a commitment or run the risk of losing the right to create my own encyclopedia on an exclusive basis. I thought that this was part of what my rights were as an author and copyright holder. I also feel strongly that RDR is attempting to interfere with my creative process by repeatedly arguing that a timeline for publication of my *Harry Potter* encyclopedia is necessary in order to prove that I mean to publish one at all. I am not a person to make statements lightly, particularly when it comes to statements that ultimately will set expectations for my fans.

8. RDR's position that fans of the *Harry Potter* series can simply buy two encyclopedias is both presumptuous and insensitive. RDR's position is presumptuous because it assumes that everyone would want to have two *Harry Potter* encyclopedias and insensitive in

thinking that everyone that would want to have both could afford to purchase both. Although *Harry Potter* is now a worldwide success, it had its roots in a time when I was very far from wealthy. While I am extremely fortunate now, having had periods in my life when I worried about having enough money to feed and clothe my daughter, it is obvious to me that many people do not have money to buy every book that appeals to them.

9. It is clear to me that RDR and Mr. Vander Ark have either misquoted me or presented many of my statements out of context. For example, in the declaration of Shawn Malholtra, he takes a statement I made jokingly in a taped interview for the PotterCast about taking "ten years" to do the *Harry Potter* encyclopedia and describes the statement as a public admission that I "did not expect to finish writing [the *Harry Potter* companion guide] for another ten years." My quote clearly was misrepresented and inappropriately cut off at a selective moment. Mr. Malholtra only later mentions in passing the rest of my statement which was that I absolutely intended to do the encyclopedia, had my notes and just needed to get working on it.

10. In addition, Mr. Malholtra identifies certain comments I made about including scrapped material and character "back stories" in my version of the *Harry Potter* encyclopedia as evidence that I did not intend to include materials that appeared in the *Harry Potter* novels, without which, in my view, the *Harry Potter* encyclopedia would not be the complete reference guide I intend it to be. In fact, the very next thing I said in that interview is that I wanted to give people everything in the companion guide and do "the absolute definitive guide." As I stated above, my encyclopedia will include materials from the original *Harry Potter* novels.

11. Still another example is with respect to the Fan Site Award -- which I instituted in order to honor *Harry Potter* fan sites, many of whom were clearly manned by real enthusiasts,

some of them very young, and who clearly had invested significant amounts of time and energy in their respective sites.

12. When I awarded the Fan Site Award to the Lexicon website, it never occurred to me for a moment that the Award might subsequently be used by Mr. Vander Ark in an attempt to legitimize an attempt to profit financially from my work. At that time I believed him to be, in common with the fans who ran the other sites I honored, a true enthusiast who simply wished to share his enjoyment of *Harry Potter* with others. In the 'citation' for the Award, I said that I had 'been known to sneak into an Internet Café while out writing and check a fact' rather than purchasing a copy of one of my own books from a bookshop 'which is embarrassing'. As this statement makes quite clear, the Lexicon could not give me anything that my own books could not. Its only value to me was that it was occasionally more convenient to access, in a situation where I was likely to be recognized in public, than it would have been to walk into a bookstore and purchase one of my own novels.

13. Additionally, while I granted a fan site award to the *Harry Potter* Lexicon website, the Lexicon website shared that distinction with three other fan sites that year. Since then, I have granted fan site awards to four additional websites wholly unrelated to the Lexicon website. At no point have I indicated, or would I indicate that any one of these websites is a "favorite." They all have much to lend themselves to the fan community and it is in recognition of their endeavors for the fan community that they received a fan site award in the first place. Again, I never intended for this award or my encouragement and support of the fan community to be taken by anyone as an authorization for them to create and sell an infringing *Harry Potter* book for profit and certainly not to sell a book designed to compete with a book I intended to write myself for charity.

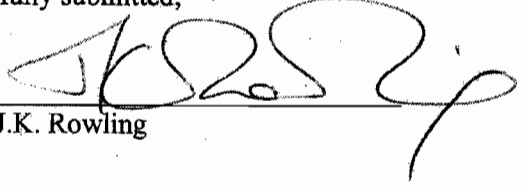
14. For seven years, *Harry Potter* was nothing but an ever-growing pile of paper and notebooks on which I worked very hard whenever I could make the time. By the time of the publication of the seventh novel I had been writing about *Harry Potter* for 17 years. As a result, I feel intensely protective, firstly, of the literary world I spent so long creating, and secondly, of the fans who bought my books in such huge numbers. I feel that I have a duty to these readers to ensure, as far as possible, that *Harry Potter* does not become associated with substandard versions, whether in the world of film, or in any other medium. I believe that RDR's book constitutes a Harry Potter 'rip-off' of the type I have spent years trying to prevent, and that both I, as the creator of this world, and fans of Harry Potter, would be exploited by its publication.

15. I am very frustrated that a former fan has tried to co-opt my work for financial gain. The *Harry Potter* books are full of moral choices and ethical dilemmas, and, ironically, Mr. Vander Ark's actions tend to demonstrate that he is woefully unfit to represent himself as either a "fan of" or "expert on" books whose spirit he seems entirely to have missed. Despite RDR's lawyers' attempts to cloak the true nature of RDR's plans, I hope it is as obvious as it is to me that what they are trying to do is wrong and interferes with my rights as a creator and copyright holder. Accordingly, I respectfully reiterate my request that this Court stop publication of RDR's "lexicon."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2008, at London, England.

Respectfully submitted,

By:


J.K. Rowling