

Nathan Fielder and Dumb Starbucks

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In February of 2014 something unexpected happened. A store called Dumb Starbucks opened in the Los Feliz area of Los Angeles, with no information as to who it was owned by, or what it was there for. Within a day it had attracted national news coverage, and “Nathan Fielder” had announced himself as the owner, stating his intent to open a second location in Brooklyn, New York. Within a week Dumb Starbucks was shut down by the Health Department, and hasn’t reopened it’s doors since.

The story of Dumb Starbucks was told in the comedy television program Nathan for You, hosted by “Nathan Fielder,” the comedy persona of Nathan Fielder. The premise of the show is that “Nathan Fielder” is a graduate of one of Canada’s top business schools, and uses this pedigree, as well as the reality show format, to prank real business owners into adopting ridiculous and embarrassing new practices in an effort to build their business. The joke becomes more layered with the addition of the “Nathan Fielder” character, adding his own sense of deep personal awkwardness and misunderstandings of social cues and boundaries, so that the joke of the series is both about how “Nathan” wants friends but doesn’t know how to interact with people healthily, except through his bad ideas on tv, and what people are willing to do to be on television.

In the episode entitled “Dumb Starbucks,” “Nathan Fielder” approached the owner of Helio Café to help him with his struggling business. He suggested

that Helio Café rebrand itself as a parody of Starbucks, in order to trick people into visiting it, thinking it was a Starbucks. After pursuing legal counsel, he discovered that this was, in fact, illegal, but that if he made it clear that it was a parody, he might be able to get by.

The lawyer who offered this advice suggested that “Nathan” would be able to pass muster on parody laws if he established a reputation as a parody artist, so Nathan set up an art show full of simplistic parody art such as “Tank of America” or similar pieces.

After doing this, thus establishing a history as a parodist, “Nathan Fielder” rented a space and built a near exact replica of a Starbucks, going so far as to hire people with experience working at Starbucks as his baristas. Every detail of the location was identical to a Starbucks, with the only difference being that every single item in the café had its name preceded by the word “Dumb.” “Dumb Starbucks” was filled with items such as the “Dumb Venti,” it’s menu full of “Dumb Frappuccino’s”, and stocking merchandise like “Dumb Nora Jones Duets.”

The comedy world quickly became fascinated with this, and it became a national news story. Each news organization tripped over itself to prove that they were “in” on the joke, citing parody law and fair use to explain how Dumb Starbucks could be allowed to use the full logo, layout and style of a Starbucks Coffee.

These organizations explained how Fair Use worked and claimed that “Dumb Starbucks” fell into that category. They contacted Starbucks itself, asking whether they were going to sue. Starbucks made motions that they were

considering a suit against the proprietor, saying they understood the joke but would not abide by someone using the name, as it was trademarked.

If Starbucks had pursued a suit against Nathan Fielder and Comedy Central, the question would be whether “Dumb Starbucks” met the requirements for Fair Use to apply.

The purpose of Dumb Starbucks is complicated to unpack, especially in artistic terms. It was initially conceived as a blatant attempt at piracy, riding on the coattails of a successful company to increase their own profits. The courts would probably not smile on this. However, as is the case with all art, meaning does not come solely from the initial germ of the idea. It is created constantly throughout the art’s existence, every person adding meaning to the work. So “Dumb Starbucks” came to mean anything from an indictment of capitalism and the way companies like Starbucks package an experience to be sold along with their products, to a parody of hipster culture, to a joke about searching for meaning in work that is so clearly saying nothing. Dumb Starbucks was a performance art/comedy Rorschach test.

The Nature of the parody would probably be neutral. Because although it was theoretically a coffee shop, it did not charge for coffee at any point during its short period of operation. Though Dumb Starbucks could start charging at any point. So the question is moot for the moment.

The amount would definitely work against Dumb Starbucks, as they had copied the entire look and feel of a Starbucks, and were using the entire logo. While it would be hard to not see the very large “Dumb” on the logo, on top of the

store, and alongside every menu item, the extent of the copying was all encompassing.

The Market Effect would surely be negligible. Starbucks is a multinational company with thousands of employees. Dumb Starbucks was an oddity that gained national attention and quickly went away.

Fair use would, in my opinion, sway towards awarding Dumb Starbucks the right to exist, however, this is a fringe reading of the law, and most courts would find against Nathan Fielder and Dumb Starbucks.

Archiving and Fair Use

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In an archive one may be confronted with the issue of making a copy of a mashup or similar piece of appropriated art. A mashup may be considered a new piece of art, but courts have been inconsistent on this, being much more “case by case” than I would like.

If faced with the preservation of a work like Apocalypse Pooh. I would have to make the argument that the work was sufficiently transformative that Fair Use would apply. Apocalypse Pooh gains its meaning and charm by mixing up images and audio from Francis Ford Coppola’s Apocalypse Now and the Winnie the Pooh cartoons of the 1970’s.

The work is not explicitly a parody of either *Apocalypse Now* or *Winnie the Pooh*, nor is it a satire. It is more clearly both a joke premise, finding the words and sounds of *Apocalypse Now* funny coming from the mouths of Pooh and co. and a weird act of criticism and narrative experimentation. The sounds of the Coppola movie become effective, regardless of the cartoony visuals. So by watching we learn the power of narrative and audio, and how we interpret stories.

In addition to this, in the unlikely event that the very permissive creator of *Apocalypse Pooh*, or his estate, were to refuse to allow a copy to be made for preservation, the work had previously been known as a bootleg work, travelling on VHS from convention to convention, garnering a cult following and generating multiple bootleg copies at every stop. As such, an archive may be able to argue that the work is supposed to be copied, as that is part of the experience.