

URANTIA FOUNDATION V. MAAHERRA

By Christina Rhee

On the basis of the legal claims involved, *Urantia Foundation v. Maa-herra*¹ was a simple copyright infringement action. This case is notable, however, because the parties agreed that the original authors of the work were several celestial beings. As a result, this case may seem to have little precedential value. After all, it is unlikely that many disputes will arise concerning works of celestial origin. Nevertheless, with the inclusion of one sentence, the court made it clear that this opinion will bear directly on an issue that will arise in a plethora of cases in the near future: "The copyright laws, of course, do not expressly require 'human' authorship, and considerable controversy has arisen in recent years over the *copyrightability of computer-generated works*."² Because the court presented its analysis as broadly applying to non-human authorship, courts that face copyright ownership issues in computer-generated works may look to this opinion for a structure within which to analyze their cases.

This case has specific implications for copyright ownership of computer-generated works: the copyright will belong to a human and, most likely under this analysis, the copyright will belong to the computer program user. Still, courts should be wary of utilizing the *Urantia* structure for all copyright disputes over computer-generated works because the analysis presents an imperfect platform for analyzing cases. The court in *Urantia* did not delve into enough of the facts in the case or establish how much the human authors actually contributed to the work and, therefore, failed to determine whether the Foundation actually met the conditions to be the copyright holder of the *Urantia* Book. Consequently, this case will not likely establish a bright-line rule for future cases.

In addition, there are a couple of alternatives that courts may use rather than the *Urantia* structure. The courts may utilize a consent model suggested from interview cases, or analyze each claim on a case-by-case basis by examining the actual input by each party. Because computer-generated works are so varied, it may be necessary for courts to reserve the right to utilize a structure that works best for each case. As of yet, there has been

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1. 114 F.3d 955 (9th Cir. 1997).

2. *Id.* at 958 (emphasis added) (citing Arthur R. Miller, *Copyright Protection for Computer Programs, Databases, and Computer-Generated Works: Is Anything New Since CONTU?*, 106 HARV. L. REV. 977 (1993)).

no case law on copyright ownership for computer-generated works, but it is likely that such cases will arise as computer programs become increasingly sophisticated.³

I. CASE SUMMARY

A. Statement of the Facts

The Urantia Foundation claimed that Maaherra infringed its copyright by copying the Urantia Book verbatim.⁴ Both parties believed that the Urantia Book was authored by several celestial beings known as the Divine Counselor, the Chief of the Corps of Superuniverse Personalities, and the Chief of the Archangels of Nebadon.⁵ At the turn of the century, psychiatrist Dr. Sadler counseled a patient he believed was channeling the revelations of these celestial beings.⁶ Dr. Sadler and other devotees of the celestial beings formed a "Contact Commission" in order to study these communications.⁷ The followers of the celestial beings believed that the communications were divine teachings and wished to better understand them in order to be able to share them with the rest of the world.⁸ The members of the Contact Commission posed questions to the beings and recorded their answers. The Contact Commission subsequently accumulated the questions and answers to form the Urantia Papers (Papers).⁹

Later, the Contact Commission members formed the Urantia Foundation (Foundation) in order "to preserve and disseminate the teachings contained in the Papers."¹⁰ After it created the Foundation, the Contact Commission transferred the printing plates for the Papers to the Foundation. In 1955, the Foundation published The Urantia Book (Book) based on the Papers, and in 1956, it received a copyright on the Book.¹¹ In 1983,

3. Commentators state that the advent of the growing use of computers and artificial intelligence may give rise to new issues of copyrightability. See Pamela Samuelson, *Allocating Ownership Rights in Computer-Generated Works*, 47 U. PITT. L. REV. 1185, 1187 (1986); Andrew J. Wu, *Dealing with Copyright Aspects of Computer-Aided Authorship: New Class of Disputes Between Programmers and Users*, 13 No. 9 COMPUTER L. STRATEGIST 1, 1 (1997).

4. See *Urantia*, 114 F.3d at 958.

5. See *id.* at 957.

6. See *id.*

7. See *id.*

8. See *id.*

9. See *id.*

10. *Id.*

11. See *id.*

the Foundation applied for and received a timely renewal of the copyright.¹²

In 1990, Maaherra, an avid reader of the Book, created a study aid that included the entire text of the Book.¹³ She distributed the study aid for free on computer disks.¹⁴ When the Foundation discovered that she was distributing the disk, it filed suit alleging copyright infringement.¹⁵ Both parties conceded that Maaherra copied the Book in its entirety.¹⁶ In her defense, however, Maaherra contended that because there was no human author there could be no valid copyright in the Book.¹⁷ Additionally, she claimed that both the transfer and the renewal of the copyright were invalid.¹⁸ Maaherra asserted that the Foundation could not adequately “establish how it had become the ‘proprietor’ of the copyright in the Papers”¹⁹ and that it inappropriately “claim[ed] renewal as the ‘proprietor of copyright in a work made for hire.’”²⁰

B. Procedural History

The Foundation originally brought this case in the United States District Court for the District of Arizona.²¹ Senior District Judge Warren K. Urbom granted Maaherra summary judgment on the renewal issue.²² The judge found that the renewal improperly described the Book as a work for hire and that the Foundation was not entitled to the renewal without proof that it was the proprietor of the work.²³ The Foundation appealed this decision to the Ninth Circuit Court of Appeals.

12. *See id.*

13. *See Urantia*, 114 F.3d at 957.

14. *See id.*

15. *See id.* at 958. There were several other claims as well at the district court level. *See Urantia Foundation v. Maaherra*, 895 F. Supp. 1338 (D. Ariz. 1995); *Urantia Foundation v. Maaherra*, 895 F. Supp. 1328 (D. Ariz. 1995); *Urantia Foundation v. Maaherra*, 895 F. Supp. 1329 (D. Ariz. 1995); *Urantia Foundation v. Maaherra*, 895 F. Supp. 1337 (D. Ariz. 1995); *Urantia Foundation v. Maaherra*, 895 F. Supp. 1335 (D. Ariz. 1995).

16. *See Urantia*, 114 F.3d at 956.

17. *See id.* at 958.

18. *See id.* at 959-60.

19. *See id.* at 959.

20. *See id.* at 960.

21. *See Urantia Foundation v. Maaherra*, 895 F. Supp. 1347 (D. Ariz. 1995), *rev'd* 144 F.3d 955 (9th Cir. 1997).

22. *See id.* at 1354.

23. *See id.* at 1352-54.

II. COURT'S ANALYSIS

A. Ownership of the Copyright

The court first addressed Maaherra's contention that the Foundation did not own the copyright in the Book. Maaherra argued that because celestial beings authored the Book, "it lack[ed] the requisite ingredient of human creativity, and that therefore the Book [was] not a 'work of authorship' within the meaning of the Copyright Act."²⁴ The court found that the Book met the originality requirements proscribed by the Copyright Act²⁵ and *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*²⁶ and therefore was copyrightable.²⁷

The court began its analysis by looking to the Copyright Act. The court stated that the copyright laws do not require human authorship, but rather some element of human creativity.²⁸ The court found that the Book was a compilation as defined in section 101 of the Copyright Act, because it had been compiled, selected, and coordinated from the original communications.²⁹ Section 103 provides that compilations are copyrightable, so, the court reasoned that the first humans to compile the information would legitimately own the copyright.³⁰ Because the members of the Contact Commission were, evidently, the first humans to arrange the information gathered from the celestial beings, the court found that they were entitled to the copyright in the Book as a compilation.³¹

The court next turned to the *Feist* originality standard for compilations.³² In that case, the Supreme Court interpreted the "originality" threshold for compilations as requiring "that the work was independently created by the author (as opposed to copied from other works), and that it

24. See *Urantia*, 114 F.3d at 958.

25. 17 U.S.C.A. §§ 101, 102(a), 103 (West 1998).

26. 499 U.S. 340 (1991).

27. See *Urantia*, 114 F.3d at 958-59.

28. See *id.* at 958.

29. See *id.* Section 101 states that "[a] 'compilation' is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship." 17 U.S.C.A. § 101 (West 1998).

30. See *Urantia*, 114 F.3d at 958 ("Those who were responsible for the creation of the tangible literary form that could be read by themselves as 'authors,' because they were responsible for the revelations appearing 'in such a way' as to render the work as a whole original.") (citing *Feist*, 499 U.S. at 358.)

31. See *id.* at 958.

32. See *id.* at 958-59.

possesses at least some *minimal degree of creativity*.”³³ According to the *Urantia* court, the Contact Commission’s questions to the spirit and the following arrangement of the Papers fulfilled the minimum requirement for creativity.³⁴ Hence, the court found that the Contact Commission owned a common law copyright in the *Urantia* Papers at the time of its creation.³⁵

B. Transfer and Renewal of the Copyright³⁶

Having found that the Contact Commission was the copyright holder of the Papers, the court next looked at the validity of the copyright transfer to the Foundation and the validity of the copyright renewal. The court found that the Contact Commission demonstrated its intent to transfer its common law copyright in the *Urantia* Papers to the Foundation by drawing up a trust with the Foundation as the beneficiary of the Papers.³⁷ This clear intent to transfer the copyright combined with the action of actually transferring the printing plates for the Papers to the Foundation were sufficient to complete legal transfer of the common law copyright to the Foundation.³⁸ Consequently, the Foundation owned the copyright in the Book at the time of the alleged infringement.³⁹

The court also found that the renewal of the copyright was valid. The court stated that timeliness was the most important factor in copyright renewals.⁴⁰ The Foundation met this requirement by submitting the application for the renewal before the deadline.⁴¹ In addition, the court noted that small inadvertent mistakes do not invalidate an otherwise valid renewal.⁴² Accordingly, the court found that the Foundation’s erroneous identification of the Book as a work “made for hire” did not invalidate the renewal.⁴³ Ultimately, the court ruled that the *Urantia* Foundation held a

33. *Id.* at 958 (emphasis added).

34. *See id.* at 959.

35. *See id.* at 960.

36. This comment will primarily focus on the copyrightability of the work in question. Specifically, this comment focuses on the case’s effect on the copyrightability of computer-generated data. Consequently, the other two issues of transfer and renewal, are not as relevant to the discussion.

37. *See Urantia*, 114 F.3d at 960.

38. *See id.*

39. *See id.*

40. *See id.* at 961.

41. *See id.*

42. *See id.* at 963.

43. *See id.* at 962-63.

valid copyright based on all three issues of authorship, transfer, and renewal.⁴⁴

III. DISCUSSION

A. Originality Standard

The court did not address all of the facts required to satisfactorily determine whether the Book possessed the minimum level of creativity necessary for the compilation copyright. The court reached the conclusion that the Book was copyrightable as a compilation and that the Foundation was the appropriate owner of that copyright. However, the steps the court took to reach that conclusion were too perfunctory. The court gave the copyright to the Foundation simply because the court believed that the mere posing of questions and the arrangement of the information fulfilled the minimum level of creativity.⁴⁵ Instead, the court should have more critically analyzed the amount of creativity the Contact Commission actually injected into the work.

As noted above, the Supreme Court recently laid out the proper test for the copyrightability of compilations.⁴⁶ The Supreme Court stated that compilations are copyrightable only when the author infuses some originality in the selection, coordination, or arrangement of the pre-existing material.⁴⁷ Since the *Feist* decision, the Federal Courts of Appeals have applied it to several cases.⁴⁸ In general, the courts have found that the mere compilation of facts is insufficient for a copyright because the requi-

44. *See id.* at 957.

45. "[T]he members of the Contact Commission chose and formulated the specific questions asked. These questions materially contributed to the structure of the Papers, to the arrangement of the revelations in each Paper, and to the organization and order in which the Papers followed one another." *Id.* at 959.

46. *See Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S. 340 (1991).

47. *See id.* at 358.

48. *See Warren Publishing, Inc. v. Microdos Data Corp.*, 115 F.3d 1509 (11th Cir. 1997) (finding that an efficient method for gathering information does not impart the necessary originality for a copyright in a directory of cable television systems); *CCC Information Services, Inc. v. Maclean Hunter Market Reports, Inc.*, 44 F.3d 61 (2nd Cir. 1994) (finding that division of regions, selection of included material and valuations was original enough for a copyright on book containing used car valuations); *Bellsouth Advertising & Publishing Corp. v. Donnelley Information Publishing, Inc.*, 999 F.2d 1436 (11th Cir. 1993) (stating that there was difference between creation and discovery for the requirement of originality); *Victor Lalli Enters., Inc. v. Big Red Apple, Inc.*, 936 F.2d 671 (2nd Cir. 1991) (finding that the charts containing the winning numbers for a race-track were void of any creativity).

site originality is missing.⁴⁹ On the other hand, when a compiler takes the facts and places them into a format that requires something more than discovery or efficiency, the compilation is copyrightable.⁵⁰

According to the court in *Urantia* case, the Contact Commission's questions to the celestial beings "materially contributed to the structure of the Papers, to the arrangement of the revelations in each Paper, and to the organization and order in which the Papers followed one another."⁵¹ However, facts revealed at the district court level suggest that the Contact Commission may not have created the questions or arranged the Papers. District Judge Urbom analyzed the relationship between the celestial beings and the Contact Commission. Instead of finding that the Contact Commission took the lead in any discussion or questioning, Judge Urbom found that the Contact Commission acted in response to the directives of the celestial beings. The Urantia Foundation admitted that "the Contact Commission lacked any power to control the production of the 'Urantia Papers' ...; it was the 'personalities' that determined which questions would be considered and what would be included in the text."⁵² In addition, the Judge found that the questions were actually in response to the papers, implying that much of the Papers were created before the questions were even asked.⁵³

These facts suggest that the Contact Commission may not be responsible for much, if any, originality in the compilation. Rather, it seems that the celestial beings orchestrated the arrangement of the Papers. Instead of considering these facts, the Court of Appeals glossed over them in the application of the *Feist* test for the copyrightability of compilations. The court should have delved into how much of the work the Contact Commission actually lifted verbatim and to what extent it edited or rearranged the revelations. Also, the court should have analyzed whether the compilation was in a predictable format which would render the work not copyrightable.

In this case, the court may have been eager to give the copyright to a human being because "[i]ntellectual property in the United States is fun-

49. See *Warren Publishing*, 115 F.3d at 1515-16; *Bellsouth Advertising*, 999 F.2d at 1441-44; *Victor Lalli Enterprises*, 936 F.2d at 673.

50. See *Warren Publishing*, 115 F.3d at 1520.

51. See *Urantia Foundation v. Maaherra*, 114 F.3d 955, 959 (9th Cir. 1997).

52. *Urantia Foundation v. Maaherra*, 895 F. Supp. 1347, 1353 (D. Ariz. 1995) (citation omitted).

53. See *id.*

damentally about incentives to invent and create.”⁵⁴ Congress created the Copyright Act in order to encourage new works.⁵⁵ If an author is unable to discourage copying of his product, his incentive to create new products will diminish. When an author is a non-human entity such as a celestial being or a computer, there is no one to hold or defend the copyright. Perhaps the court determined that the copyright did indeed belong to the Contact Commission because that was the only pragmatic way to avoid these issues. In cases of computer-generated works, however, the computer (non-human author) will be programmed by a human, so more often than not, the issue of copyright ownership will be more complicated.

B. Computer-Generated Works

If courts strictly apply the *Urantia* decision to future copyright claims over computer-generated works, they will grant the copyright to a human, most likely the computer program user. As noted above, the *Urantia* court compared the non-human authorship of the Book to the non-human authorship of computer-generated data.⁵⁶ In this case, the court found that the Foundation was the rightful owner of the copyright in the Book because human Contact Commission members were involved in its creation. “[I]t is not creations of divine beings that the copyright laws were intended to protect, and ... in this case some element of human creativity must have occurred in order for the Book to be copyrightable.”⁵⁷ By extension, this statement suggests that the necessary factor for computer-generated work being copyrightable is a minimum level of creative input by humans. At this stage in their development, computers do not have the capability to think or create completely on their own, so there is always an element of human input involved. Under this court’s analysis, then, the *Urantia* holding would probably mean that the computer-generated works are copyrightable by those humans.⁵⁸

54. ROBERT P. MERGES ET AL., *INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL AGE* 12 (1997).

55. *See id.*

56. *See Urantia*, 114 F.3d at 958.

57. *See id.*

58. This case confirms the view of most commentators who believe that computer-generated works are copyrightable and that the copyright should belong to a human. *See Miller, supra* note 2, at 1058 (“Although commentators have differed as to who should be considered the author of a computer-generated work, they seem to agree that it should be a human being or legal entity, even though identifying that author may not always be easy - especially when the human element is highly attenuated.”) (citing Samuelson, *supra* note 3, at 1224-28).

Under the logic of the *Urantia* case, future courts would not only grant copyrights in computer-generated works to humans, but they most likely would grant the copyright to the computer program user with no recognition to the programmer or the owner of the program. As noted above, because this case does not delve into the rights of the other parties in the creation of the work, the court deemed the copyright to be purely the property of the compiler. In the case of computer-generated works, the counterpart to the compiler would be the user of the program. The program user inputs certain data and parameters to guide the computer's responses. The end creation would be, in part, a product of the tasks the user instructed the program to perform. Under this court's formulation, because the user contributed to the structure and arrangement of the final product, the user would be entitled to the copyright on the work as a compilation.

C. Problems in the Application of This Case to Computer-Generated Works

Because the analysis from this case is so perfunctory, future courts faced with disputes over copyrights in computer-generated works should be reluctant to utilize such a bright-line rule. In computer-generated works, there are many different types of programs that require differing levels of input. These works vary widely: from an essay that an author creates on her own using a word processor to musical compositions that are created almost completely by a computer with minimal input by a user. Because the amount of originality involved in creation of the work varies so widely, it may be inappropriate to state that in every case the copyright should belong solely to the user of the program.⁵⁹

In addition, a compilation structure does not seem to be the best paradigm for analyzing computer-generated works. In many compilations such as telephone books or automobile price quotation books, the facts themselves are not copyrightable and are in the public domain. In such a case, the compiler does not vie for the copyright in the compilation against someone else. In a computer program, on the other hand, many of the elements are copyrightable by the programmer including the literal and nonliteral elements of the program.⁶⁰

59. Even Professor Samuelson, who generally proposes giving the user the copyright in the computer-generated work, recognizes that in some cases where the work "incorporates a substantial block of recognizable expression from the copyrighted program" there should be an exception to this rule. Samuelson, *supra* note 3, at 1192.

60. See, e.g., *Apple Computer v. Franklin Computer*, 714 F.2d 1240, 1246-49 (3d Cir. 1983) (stating that computer programs in object code, source code, and embedded in

Because the compilation or the computer-generated work will most likely be a product of copyrighted elements, clip art, music, etc., the user may have to vie for the copyright against the owner of the copyrighted works incorporated into the program. For example, in a recent article, Tal Vidgerson explored the rights of authors versus the rights of programmers of computer-generated "read-alike" works.⁶¹ Vidgerson based his article on a programmer who programmed his computer to write a book in the style of a famous deceased author, Jacqueline Susann. He copied her style of writing and reduced it to "6000 computer-programmed rules equalling hundreds of thousands of lines of computer code."⁶² In a program like this one, the programmer has imparted most of the creativity in the creation of the work. The program user would only need to press "enter" or type "compose" and the computer would create a novel in the style of Jacqueline Susann. Even though the novel is a new creation by the computer user, the programmer enabled the computer to create the work with little additional input. The original author, the programmer, and the program user could all have competing claims to the copyright of the computer-generated end-product. In this case, it would be inequitable to grant the copyright to the user when he contributed the least work and little, if any, creativity.

D. Alternatives To A Strict Compilation Structure With Which To Analyze These Cases: Case-by-Case Analysis and Interview/Consent Model

Courts that face the issue of copyright ownership of computer-generated works may choose to follow the *Urantia* structure or use a different analysis altogether. One option the courts could use would be to analyze each claim on a case-by-case basis to determine how much of the end product is due to the creative input of each party involved.⁶³ In this way, a court can fairly evaluate who should own the copyright or whether the parties should share the copyright. Unfortunately, however, this may

ROM are copyrightable); *Stern Electronics, Inc. v. Kaufman*, 669 F.2d 852, 856-58 (2d Cir. 1982) (protecting computer program audio/visual elements under copyright).

61. Tal Vidgerson, *Hamlet II: The Sequel? The Rights of Authors vs. Computer-Generated "Read-Alike" Works*, 28 LOY. L. REV. 401 (November 1994).

62. See *id.* at 405-06.

63. See LEGAL RESEARCH NETWORK, INC. ET AL, RULES OF THE ROAD FOR THE INFORMATION SUPERHIGHWAY: ELECTRONIC COMMUNICATIONS AND THE LAW § 32.2 (1996) ("The particular solution to the conflicting claims of the author of the program, the user, and the owner of the computer is likely to depend on the facts of the particular case, rather than on a generalized rule of attribution of ownership."); see also Miller, *supra* note 2, at 1059.

prove to be a drain on the courts' time and resources if the courts were obligated to analyze the facts of each copyright dispute.

Another alternative to the strict compilation structure would be the interview/consent model. Though the *Urantia* court viewed the Book as a strict compilation, that is not the only, or even, the most logical paradigm. Another more logical approach that the court could have taken would have been to view the interactions between the Contact Commission and the celestial beings as an interview because the posing of questions and recording of the answers falls into the basic structure of an interview.

In cases where the published work in question is an interview, the copyright has generally fallen to the interviewer as the author of the interview. "Regardless of who owns the copyright in each of the quoted passages in the article, there can be no doubt that [the interviewer] owns the copyright in his compilation of the quotations."⁶⁴ Because the work is an interview, the courts reason that the structure fulfills the necessary creativity for an interviewer copyright in a compilation.⁶⁵ This type of analysis may be more appropriate for the *Urantia* case because the facts, as the court viewed them, seem to fit a compilation as interview structure better than a strict compilation structure.⁶⁶

More importantly, courts pay special attention to the fact that interviewees typically grant permission to the interviewer to use the quotations in the final work.⁶⁷ In *Estate of Hemingway v. Random House, Inc.*,⁶⁸ the court stated that Hemingway's willingness to let Hotchner take notes of their conversations and write articles based on the articles preempted any common law copyright Hemingway's estate could have claimed on Hemingway's quotations.⁶⁹ Similarly, in *Urantia*, the celestial beings were

64. See *Quinto v. Legal Times of Washington, Inc.*, 506 F. Supp. 554, 559 (1981).

65. See Vicki L. Ruhga, *Ownership of Interviews: A Theory for Protection of Quotations*, 67 NEB. L. REV. 675, 684 (1988) ("Several courts maintain that the interviewer is the sole owner of a work consisting of quotations. The courts reason that the interviewer recreates the conversation, organizes the article and forms the literary expression.") (citation omitted).

66. Of course, because interviews are viewed as compilations, the interviewer still needs to impart the necessary amount of originality required by the Court in *Feist* in order to hold a copyright on the interview. See *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S. 340, 358 (1991).

67. See *Quinto*, 506 F. Supp. at 559 ("Even if [the plaintiff] did not own the copyright to the quotations in his article, he had permission to use the quotations and his copyright in the compilation protects his selection, arrangement, and ordering of them.")

68. 296 N.Y.2d 341 (1968).

69. "For the present purposes, it is enough to observe that Hemingway's words and conduct, far from making any such reservation, left no doubt of his willingness to permit Hotchner to draw freely on their conversation in writing about him and to publish such

willing to let the Contact Commission take the revelations and, at the very least, transcribe them. There is no indication that the celestial beings would have disapproved of the Contact Commission publishing the work. On the contrary, the facts revealed in the district court state that the celestial beings directed which questions would be in the text.⁷⁰ If the Foundation could show that the celestial beings expected that the works would be published and did not disapprove, then under the interview as compilation structure, the Foundation may be a valid copyright holder as an interviewer.

While the interview paradigm laid out above may not seem to fit the computer situation any better than the basic compilation analysis, those cases provide an important insight courts should utilize going forward: the relevance of consent. In the interview cases, courts viewed the interviewee's consent to the interview as permission to the interviewer to utilize the information gained in the interview. In comparison, programmer consent in the forms of contract, licensing, or payment could enable the user of a program to copyright the end product. Professor Samuelson argues that in those cases where the programmers get something in return for sale or license of their program, the programmers should yield some of their rights.⁷¹ Also, if the programmers choose not to give up their rights, they always have the option not to distribute the program.

When courts are faced with the issue of copyright in computer-generated data, they will have alternatives to the *Urantia* structure: case-by-case analysis and a consent model may be two alternatives to consider. The consent analysis may be the stronger of the two because it can act as a default. Such a default model may encourage the programmer and the user to settle the copyright question before the user ever creates a new work with the program. This way both parties are aware of their rights and can negotiate, instead of having an outside party decide their rights for them. Lastly, the default rule adds the elements of reliability and foreseeability to this area of law and may make it a better choice than case-by-case analysis.

material." *Id.* at 349-50; *see also* *Ruhga*, *supra* note 64, at 681-82 (stating that in *Falwell v. Penthouse International*, 521 F. Supp. 1204 (1981), the court dismissed the case based on Falwell's consent to the interview).

70. *See* *Urantia Foundation v. Maaherra*, 895 F. Supp. 1347, 1353 (D. Ariz. 1995).

71. *See* Samuelson, *supra* note 3, at 1207.

IV. CONCLUSION

On its face, *Urantia Foundation v. Maaherra* is a case about straightforward copyright infringement. However, when the court addressed the issue of non-human authorship, it also created implications for future cases regarding the copyrightability of computer-generated works. The court's opinion suggests that a computer program user will own the copyright on the end product even if he or she contributes only a minimal level of creativity. Nevertheless, it would be a hasty and inequitable decision for a court to state that the program user owns the copyright where he or she has contributed minimal creative input.⁷² As technology becomes more sophisticated, the facts of computer-generated works cases will vary so widely that decisions will not yield satisfactory results in many cases with the simple application of *Urantia* and the courts should be wary of utilizing it broadly in the newly emerging arena of computer-generated works.

72. One commentator has even posited that we will eventually reach the opposite conclusion from that reached in *Urantia*; Professor Arthur Miller has argued that as computer programs become more sophisticated, the computer programmer should be the owner of the copyright in the computer-generated work. See Miller, *supra* note 2, at 1058.

