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Fifty Shades of Grey Sues Smash Pictures Over XXXAdaption of Steamy Series

FIFTY SHADES OF GREY SUES SMASH PICTURES OVER XXX ADAPTION OF STEAMY SERIES

by Caroline Jamet

The following blog post was originally published on www.ipbrief.net on December 28, 2012.

After selling more than 40 million copies since its release in June 2011, the book *Fifty Shades of Grey* is still making a buzz. The trilogy, published by EL James, a British writer, tells the tale of a naïve literature student who meets a young billionaire entrepreneur with a penchant for kinky sex. Given the success of the book, a movie adaptation was to be expected. So last March, EL James and her company Fifty Shades Ltd. sold the film rights to Universal for \$5 million.

However, Universal was not the only company to make the choice to exploit the pornographic potential of the movie: Smash Pictures, a pornographic film production company located in California has announced the release of *Fifty Shades of Grey, a XXX Adaptation*, on January 10th 2012. Consequently, Universal and Fifty Shades sued Smash Pictures, and two other defendants, stating in the complaint that the movies was “a rip-off, plain and simple.” Indeed, the sticking point here is that the movie is not a pornographic parody of the book, which would be more resistant to a lawsuit, but an actual adaptation of the books. The movie is “virtually a beat-for-beat copy of James’ books, from the dialogue to the storylines and even down to the main character’s names, Christian Grey and Anastasia Steele.”

Smash Pictures is not the only target of the lawsuit. The suit was filed in California on November 22 by Universal and James’s British Company, Fifty Shades Ltd., which owns the copyright to the novels, and names as defendants Smash Pictures, James Lane (the writer and director of the *Fifty Shades* adaptation) and Luv Moves, which is alleged to have packaged the DVD with sex toys in a kit called “Fifty Shades of Pleasure: Play Kit & Movie.” The plaintiffs seek an injunction, actual damages and punitive damages for copyright infringement, false designation of origin, false advertising, trademark dilution, business law

violations, and unfair competition. James owned Fifty Shades Ltd., but is not individually a party to the lawsuit. According to Universal and Fifty Shades Ltd., Smash Picture and James Lane’s movie is nothing less than a “willful attempt to capitalize on the reputation of the book.”

The steamy trilogy is, originally, an erotic adaptation of the *Twilight* books. According to EL James, the idea for the Fifty Shades trilogy developed from a Twilight fan fiction originally titled “Master of the Universe,” featuring characters named after Stephenie Meyer’s book. After receiving comments on the sexual nature of the material, James removed the story from the fan fiction website, rewrote it as an original piece, with the principal characters renamed Christian Grey and Anastasia Steele, and published it.

A porn parody of *Fifty Shades* can therefore not come as a big surprise. Pornographic adaptation of pop culture phenomena is not uncommon. Last September, Ben & Jerry’s sued the makers of a series of porn films including *Hairy Garcia*, *Boston Cream Thigh* and *Peanut Butter D-Cups* that allegedly infringed the trademarks on ice cream flavors. Additionally, last summer, L.A. Weekly discussed the book’s potential as an erotic movie, saying: “While parodies are the only way adult film studios can make any money these days, making a *Fifty Shades* version is truly the only way to put the three erotic novels on film in their BDSM glory without MPAA censorship and film industry finger-wagging.” In this same article, Stuart Wall, a Smash executive stated: “Since they are going to make a mainstream (film) of the books too, dabbling in the adult world, we’re choosing to go with a XXX adaptation which will stay very true to the book and its S&M-themed romance.” In its lawsuit, Fifty Shades Ltd. and Universal use this quote in an attempt to prove that the defendants intended to usurp copyright (which can lead to a finding of

willful copyright infringement and result in very high punitive damages) and trademark (because of the risk of confusion as to the source of origin). The lawsuit, filed in California, reads: “By lifting exact dialogue, characters, events, story and style from the *Fifty Shades* Trilogy, Smash Pictures ensured that the first XXX adaptation was, in fact, as close as possible to the original works.” The plaintiffs, who appear to have thoroughly screened the movie, claim that: “Beginning with the first XXX Adaptation opening scene and continuing throughout the next two and a half hours of the film, Smash Pictures copies without reservation from the unique expressive elements of the *Fifty Shades* trilogy, progressing through the events of *Fifty Shades of Grey* and into the second book, *Fifty Shades Darker*. The first XXX adaptation is not a parody, and it does not comment on, criticize, or ridicule the originals. It’s a rip-off, plain and simple.”

Smash pictures could not be reached for comment.

