

## *Creation Norms and Authorship: The Porgy and Bess Controversy*

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A controversy erupted in 2011 over a revamped version of the seminal opera *Porgy and Bess*, which was composed by George Gershwin, with lyrics primarily by DuBose and Dorothy Heyward and contributions by Ira Gershwin. This new version, which was supported by the estates of George Gershwin, DuBose and Dorothy Heyward, and Ira Gershwin, sought to transform 1935 opera into a Broadway musical starring four-time Tony award winning actress Audra McDonald and Norm Lewis. To effect this transformation, the director, Diane Paulus, and Pulitzer Prize winning playwright, Suzan-Lori Parks, proposed a number of modifications, including adding new scenes, changing dialogue, inventing biographical details, and adding a more upbeat ending. The prospect of such changes sparked a furor. For example, in a *New York Times* letter to the editor, Pulitzer Prize and Tony Award winning composer and lyricist Stephen Sondheim condemned the revised version, focusing on a number of issues, including the rebilling of the piece as “The Gershwin’s Porgy and Bess,” which omits mention of DuBose Heyward, who wrote many of the lyrics. Most importantly, Sondheim criticized “the disdain that Diane Paulus, Audra McDonald and Suzan-Lori Parks feel toward the opera itself.”

The controversy that emerged about *Porgy and Bess* reflects underlying conceptions of authorial intention that are relevant to copyright. Although George Gershwin, Ira Gershwin, and DuBose and Dorothy Heyward are all long dead, the conception of performance as guided by authorial intention remains a strong force long after their respective deaths. This is true not only for the creators of *Porgy and Bess*, but with respect to a broad range of creators of both classical and contemporary music (including what many refer to as classic musicals). Conceptions of authorial intention have significant implications for copyright and creativity. Norms that insist on strict adherence to notions of authorial intention may reflect an ethos of sacralization that is often consistent with dominant copyright assumptions about creativity. This sacralization ethos may, however, negatively impact the ability of future creators to reinterpret and change creative works, which is an important source of creativity. Further, for works like *Porgy and Bess*, which are considered by some to be offensive, modification may play an important role in maintaining a work’s continuing relevance. As the *Porgy and Bess* controversy illustrates, these norms may arise from sources other than creators themselves. In this instance, the estates of all original creators consented to modification of the work. Audiences and other creators such as Sondheim may also significantly influence how works are used and modified. This article suggests that negotiating the divide between authorial intention and reinterpretation is key to both the effective operation of copyright as well as the introduction of innovative and creative interpretations in musical and other contexts.