

*SAMPLE ESSAY FOR STS128/228, 2002*

**Fame and fortune**

by P. Wright

*Scene:* Helen Steel is working at her desk at home in London when suddenly Ronald McDonald<sup>1</sup> appears in the room out of nowhere.

Helen: “Well I’ll be damned! I must be working too hard on this court case, since now I’m imagining that Ronald McDonald is here. Bloody McDonald’s has infected my brain!”<sup>2</sup>

Ronald sits down and then speaks: “Sorry to startle you, Helen.”

Helen drops her jaw in amazement and pinches herself, muttering “I don’t think I’m dreaming. What’s going on?”

Ronald, sounding a bit stiff and mechanical, says “I’m on a mission from head office. Can I check with you that I’ve been briefed correctly?”

Helen: “Why not? Go ahead.”

Ronald: “We — McDonald’s that is — are incredibly jealous about our reputation. So when London Greenpeace produced a leaflet called ‘What’s wrong with McDonald’s?’, we saw this as a serious threat.”

Helen: “That’s right. I presume you know that London Greenpeace is a small anarchist group, quite separate from Greenpeace International, the well-known environmental organisation?”

Ronald: “Yes, but that didn’t matter to us. You know we sued family businesses with the name ‘McDonald’s’, even when they were set up before us. In fact, even using ‘Mc’ could be a trigger for a legal action.”<sup>3</sup>

Helen: “So you infiltrated our group and then launched an action for defamation. You didn’t want us to be telling even a few people about the unhealthiness of your food, the poor wages you paid, the wasteful packaging or the destruction of rainforest timber to clear land to produce beef for Big Macs.”

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<sup>1</sup> See “Ronald.com,” <http://www.ronald.com/> (accessed 24 September 2002)

<sup>2</sup> The dialogue attributed here to Helen Steel is imaginary and the views attributed to her may not correspond to her own.

<sup>3</sup> For examples, see Fiona J. L. Donson, *Legal Intimidation: A SLAPP in the Face of Democracy* (London: Free Association Books, 2000).

Ronald winced. “Can we agree to disagree about what the leaflet claimed? The key thing is that we sued for defamation. Every one in London Greenpeace capitulated except for you and Dave Morris.”

Helen (joyfully): “You didn’t anticipate that a couple of skint anarchists could stand up to the might of the powerful and wealthy McDonald’s Corporation!”

Ronald (ruefully): “You and Dave’s legal defence was amazing. You two were legal novices, only occasionally backed up by pro bono legal support, yet you managed to match our expensive legal team in the longest running court case in British history. But more important was the publicity that you generated. The whole process turned out to be the biggest public relations disaster in the history of the company.”<sup>4</sup>

Helen (smiling): “What really hurt was the World Wide Web got going. Our supporters put vast amounts of material about the case on the web.<sup>5</sup> Our original leaflet, ‘What’s wrong with McDonald’s’, has now been read by more people than you ever imagined.”

Ronald: “Ah, the web. You know, we thought about trying to shut down the McSpotlight website, but there were a couple of problems. It was based in the US, where defamation law isn’t as draconian as here in Britain.<sup>6</sup> Even worse, if we shut down one site, a copy could just pop up somewhere else.”

Helen: “Yes, there were several mirrors<sup>7</sup> of the McSpotlight site.”

Ronald stood up and began pacing round the room: “That brings me to the point of my visit. McDonald’s top executives have been badly burned by the McLibel case. They are not likely to be so foolish again. But they are concerned about defamation on the net. They — we — would like your advice.”

Helen (sarcastically): “I’m flattered.” She pauses. “But who, or what, are *you*?”

Ronald: “Actually, I’m an apparition, purely a figment of your imagination. McDonald’s hired Edward de Bono to apply the process of morphic resonance to stimulate your own green hat thinking through exteriorisation of internal cognition. Ed figured that you’d react adversely to a real McDonald’s executive, so he used me. I’m a bit of a clown, as you know.”

Helen (perplexed and annoyed): “You’re a clown all right but this sounds like mind manipulation to me. McDonald’s is up to no good.”

Ronald (contritely): “I can understand your concern. Ed insisted that this process be restricted to positive outcomes — yellow combined with green hat thinking. We’re after win-win outcomes. Anything else would be unethical.”

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<sup>4</sup> John Vidal, *McLibel* (London: Macmillan, 1997).

<sup>5</sup> The McSpotlight website is at <http://www.mcspotlight.org/> (viewed 24 September 2002).

<sup>6</sup> On British defamation law, see David Hooper, *Reputations under Fire: Winners and Losers in the Libel Business* (London: Little, Brown, 2000).

<sup>7</sup> A mirror, in this context, is a copy of a website.

Helen (suddenly confident): “McDonald’s has tried lots of mind tricks on Dave and me but we’ve learned how to handle it. Go ahead.”

Ronald: “The net is a wonderful invention but one of its down sides is how easy it is to attack someone’s reputation. I know what you think about McDonald’s, but what is a responsible company to do if it comes under attack? Making a profit depends on maintaining a good reputation.”<sup>8</sup>

Helen: “Have you forgotten that I’m an anarchist? I don’t believe in profit — at least not for capitalists! The workers should run industry in a cooperative fashion, making decisions in a democratic way that also involves community interests.<sup>9</sup> Instead of junk food sold by underpaid workers, the aim would be wholesome food made available to everyone who needs it, with a reasonable living for all workers.”

Ronald: “Wow, I’d forgotten how radical anarchism is. But how about this? Suppose you’re involved in a well-functioning health food cooperative,<sup>10</sup> but someone posts claims on the web saying you’re dishonest and a public health risk?”

Helen: “Defamation law is no use. It’s too slow, expensive and dependent on experts. Anyway, as an anarchist I oppose laws made by the state.”

Ronald: “So you’re opposed to defamation law altogether?”

Helen: “Hell yes!”

Ronald: “Then what would your cooperative do about damaging statements?”

Helen: “We would answer each claim, point by point, with facts. Let the facts speak for themselves. If someone makes false claims, this will rebound against them — just like your defamation suit rebounded against you!”

Ronald (awkwardly): “The rebound effect is real enough, but I think you have a sentimental belief in the power of facts. Lots of people want to believe the worst, especially about a powerful company like McDonald’s.”

Helen: “They have good reason to. Power corrupts, after all.<sup>11</sup> McDonald’s has lots of power. You draw the conclusion!”

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<sup>8</sup> On capitalism, see for example Robert L. Heilbroner, *The Nature and Logic of Capitalism* (New York: Norton, 1985); Ernest Mandel, *Late Capitalism* (London: NLB, 1975); Jeremy Rifkin, *The Age of Access: The New Culture of Hypercapitalism, Where All of Life Is a Paid-for Experience* (New York: Tarcher/Putnam, 2000).

<sup>9</sup> On anarchism, see for example Michael Bakunin, *Bakunin on Anarchy* (edited and translated by Sam Dolgoff) (New York: Vintage, 1971); Daniel Guérin, *Anarchism: From Theory to Practice* (New York: Monthly Review Press, 1970); Colin Ward, *Anarchy in Action* (London: George Allen & Unwin, 1973).

<sup>10</sup> Good discussions of cooperatives are given by George Melnyk, *The Search for Community: From Utopia to a Co-operative Society* (Montreal: Black Rose Books, 1985); Jenny Thornley, *Workers’ Co-operatives: Jobs and Dreams* (London: Heinemann, 1981).

Ronald: “Touché! But let me tell you about an idea of mine. Reputation is a precious commodity, so why not develop a market in reputations? A special web office, called Reputation Central, could total up positive and negative comments about any company and give a rating. They could use special search engines called Reputation Engines. Companies that want a higher reputation would need to encourage their supporters to post comments on discussion groups and put up websites.”

Helen: “That’s one crazy idea! Reputations shouldn’t be for sale. Companies would just hire staff to put out favourable comments. They do that already.<sup>12</sup> It’s nothing to do with quality and everything to do with PR and spin. Those with the most money will end up with the best reputation rating. That reveals a fundamental flaw in markets.”

Ronald (quietly): “Actually, I was thinking about your ideal anarchist society. There wouldn’t be any big companies, would there? Just small cooperatives. So what’s wrong with a market in reputations in that situation?”

Helen (impressed): “My gosh, Ronald McDonald thinking like an anarchist! Let me see ... One problem is that some anarchists are opposed to markets altogether. They favour free distribution of goods and services so that everyone’s basic needs are satisfied. But you’re right, there are some anarchists who support a market, though that tends to be more along the lines of libertarianism.<sup>13</sup> I’m not sure what they would think of a market in reputations. It still sounds crazy to me.”

Ronald: “Let’s examine some of the problems with reputations online. In the old days defamation law inhibited some of the worst abuses. People — especially the media — knew they might be sued if they damaged someone’s reputation and didn’t have the facts to back up their statements.”

Helen: “Those bad old days are still with us. Defamation laws are ridiculously strict, putting the burden of proof on the defendant. Yet the laws don’t work to protect reputation, since very few people can afford to launch an action for defamation.”

Ronald: “So does the net make any difference? It seems to me that it simply opens up more opportunities for defamatory comments. There needs to be some means of redress.”

Helen: “There is. Just reply on the net. If a damaging email is circulated to an email list, send a measured reply to the same list. If a damaging web page is posted, put up your own in reply. That’s the beauty of the net. You don’t need to spend thousands of pounds and wait years to deal with the slur.”

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<sup>11</sup> This idea is commonly attributed to Lord Acton, but Helen slightly misquotes, since Acton said “Power tends to corrupt and absolute power corrupts absolutely.”

<sup>12</sup> Sharon Beder, *Global Spin: The Corporate Assault on Environmentalism* (Melbourne: Scribe, 2000).

<sup>13</sup> Libertarians believe in a completely free market but, unlike anarchists, often support a minimal state to protect private property and run a national military defence system.

Ronald: “But that makes every commentator virtually equal. A big company — whoops, a bit cooperative — is virtually at the mercy of every spiteful individual. It’s unfair!”

Helen: “You said it: ‘virtually equal’! But you worry too much. There are all sorts of crackpots around. Do you want to sue every one? It’s far better to let them discredit themselves by their silly comments. Anyone who is sensible will be swayed by facts. That’s why some sites get more traffic. They establish credibility and people keep coming back.”

Ronald: “Helen, you’re starting to sound like a market enthusiast! There’s a de facto market in reputations, but the market currency is information and judgement. By providing credible information or making sound judgements, your reputation goes up. But when you dump on someone without justification, your reputation goes down.”

Helen (tentatively): “That seems like a reasonable description.” She pauses. “But haven’t you just applied market language to something that goes on all the time? Is it really a market in the economic sense?”

Ronald: “I’ll come clean. That’s what McDonald’s would like to see: a market in reputations where we can grow along with our profits. We know the net is vital to the future of the company. The question is how we interact with it.”

Helen (suddenly cynical): “You had me going for a while. You want a growing reputation while selling junk burgers and paying peanuts. Reputation should be based on reality, not slick marketing.”

Helen starts to pace around the room, but Ronald always moves to be at a distance.

Helen: “This is all in my imagination anyway, so let’s proceed. I think we’ve agreed on a couple of things. First is that defamation law is a cumbersome way of protecting reputation and makes even less sense on the net. The cases where legal actions have been launched over net communication only seem to inhibit free discussion.”<sup>14</sup>

Ronald: “A second point of agreement is that attacks can backfire. Attempts to censor the net sometimes generate more attention.”

Helen: “Can I take it that McDonald’s is going to reduce its reliance on legal action?”

Ronald: “That’s not my decision.”

Helen: “I knew it. Corporations are run from the top, in the interests of top managers and shareholders. Poor flunkies like you have to carry the can.”

Dave Morris came in the house a little while ago and has been watching with concern.

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<sup>14</sup> Laura Flanders, “Will British libel laws rule cyberspace? Bush-backing mining co. muzzles reporter’s website,” *Extra!*, September-October 2001, p. 27; Michael Pelly, “Web’s site of libel puts publishing on the spot,” *Sydney Morning Herald*, 1-2 June 2002, p. 13; Kara Platoni, “War of the words: an Oakland judge makes a precedent-setting ruling in an Internet libel case,” *East Bay Express*, 5 September 2001 (<http://www.eastbayexpress.com/issues/2001-09-05/cityside.html>); Giles Wilson, “Gagging the net in 3 easy

Dave: “Helen, who the hell are you talking to? Have you gone bonkers?”

She looks around at Dave, then back towards Ronald — but he’s disappeared. She thinks quickly.

Helen: “I was just rehearsing an imaginary conversation about defamation and the net. It’s a bit of a diversion from all these court documents.”

Dave (unconvinced): “If you say so.” He heads for the kitchen. There sits Ronald.

Dave (loudly): “Well, I’ll be damned. It’s Ronald McDonald!”

Helen smiles.

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steps,” BBC News Online, 13 April 2000 ([http://news.bbc.co.uk/low/english/uk/newsid\\_711000/711782.stm](http://news.bbc.co.uk/low/english/uk/newsid_711000/711782.stm)), cited in GILC Alert, Volume 4, Issue 4, 24 April 2000, item 1 (<http://www.gilc.org/>).

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## **Brian's comments on P. Wright's essay**

### **Criterion 1: knowledge of case study**

You have an excellent knowledge of defamation law and the McLibel case in particular, especially as shown through the first few pages describing the case.

Helen Steel is probably more interested in green issues and animal liberation than anarchism per se, but your imaginative treatment of her persona is fine for the purposes of the essay.

To improve, you could tell more about the McSpotlight site, for example what's in it and who seems to use it. In general, you could give more attention to net aspects of defamation.

### **Criterion 2: understanding of theories**

You show an excellent understanding of anarchist theory, especially through the way Helen talks about differences between anarchists and applies anarchist ideas to practical issues, in particular defamation law. Your treatment of capitalism is solid and your idea of a market in reputations, judged by reputation engines, is original.

To improve, try to suggest some of the complexity in capitalist operations. Capitalist theory might imply a ruthless quest for profits, but what about corporate culture, personal spite, etc.? Are these part of the theory?

### **Criterion 3: use of sources**

You've used an excellent array of sources about defamation, including various specific treatments of net defamation, drawn from a variety of places on-line and off-line.

Your references on anarchism are fine. However, your references about capitalism are rather idiosyncratic: Heilbroner, Mandel and Rifkin take very different orientations to capitalism. It would be better to provide references that are relevant to specific points about capitalism, for example in the way you've provided references about cooperatives.

### **Criterion 4: quality of the dialogue**

Your scenario is effective, since it's not easy to imagine a way to get entrenched defamation opponents talking about the issues reasonably. The dialogue is engaging and sometimes amusing, and traverses the issues in a clear and convincing fashion. There are a few incorrect words. You've apparently done a spell-check but one last reading would have been worthwhile to get each of the words right.