

Kluwer Copyright Blog

Copyright case: Brown v. Netflix Inc., USA

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Thursday, June 24th, 2021

An eight-second piece of the song “Fish Sticks n’ Tater Tots” was transformative and reasonably related to the documentary’s purpose of commenting on the resurgence of burlesque dancing.

A documentary film’s incorporation of an eight-second excerpt of the children’s song “Fish Sticks n’ Tater Tots” was a noninfringing fair use, the U.S. Court of Appeals in New York City has held. A federal district court’s dismissal of infringement claims by the song’s creators against streaming video service providers Netflix, Apple, and Amazon was affirmed. The documentary’s use of a small portion of the song for informational and commentary purposes was transformative. Use of the song excerpt was reasonable in connection with the film’s purpose of documenting the burlesque theater resurgence in Portland, Oregon, and it was not likely to harm the market for the song (Brown v. Netflix, Inc., May 18, 2021, Jacobs, D.).

Case date: 18 May 2021

Case number: No. 20-2007

Court: United States Court of Appeals, Second Circuit

A full summary of this case has been published on [Kluwer IP Law](#).

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