

Red Label Music Publ'g v. Chila Prods.
18 C 7252, 2019 U.S. Dist. LEXIS 90159 (N.D. Ill. May 30, 2019)

Year	2019
Court	United States District Court for the Northern District of Illinois
Key Facts	Plaintiff Red Label Music Publishing, Inc. (“Red Label”) is a music publisher that owns the copyrights in the words, music, sound recording, and video of the iconic <i>Super Bowl Shuffle</i> , a hip-hop song and music video featuring members of the Chicago Bears recorded en route to their victory in Super Bowl XX. Defendant Chila Productions (“Chila”) produced a biographical documentary, <i>'85: The Greatest Team in Football History</i> , which featured eight seconds of the <i>Super Bowl Shuffle</i> 's music and 16 separate short clips of the music video, totaling 59 seconds, while discussing the <i>Super Bowl Shuffle</i> 's role in the Chicago Bears' season. Red Label brought suit against Chila and others involved with the film alleging copyright infringement. Chila moved for judgment on the pleadings, or in the alternative, summary judgment. Red Label moved to strike Chila's fair use affirmative defense and opposed summary judgment.
Issue	Whether using portions of a sound recording and a music video in a documentary constitutes fair use.
Holding	Denying Red Label's motion to strike, the court assessed the fair use defense. The first factor, the purpose and character of the use, weighed in favor of fair use because Chila did not use the <i>Super Bowl Shuffle</i> for its expressive content or entertainment value, but rather for its factual content to tell a historical narrative. Its presence in the film was “purely descriptive and designed merely to preserve a specific aspect of [Bears] history.” Moreover, although the documentary was produced for commercial gain, the use of the short clips from the <i>Super Bowl Shuffle</i> was “incidental to the larger commercial enterprise of creating a historical video for profit.” On the second factor, the nature of the copyrighted work, the court noted that the <i>Super Bowl Shuffle</i> falls within the core of the Copyright Act because it is “original, creative, and expressive.” Yet, because the portions of the <i>Super Bowl Shuffle</i> were used to demonstrate historical facts, not the creativity of the original expression, the court found the second factor neutral. Addressing the third factor, the amount and substantiality of the work used, the court noted that Chila used only two percent of the song and seventeen percent of the music video, which was “no more than necessary” to serve as a historical reference point in the commentary. Lastly, the court found the fourth factor, the effect of the use on the potential market for or value of the work, did not weigh in either party's favor. The court found the plaintiffs demonstrated some licensing market for the clips, but failed to articulate how defendants' work would harm this market given that “the parties operate in significantly different markets.” Moreover, the portions of the song in the documentary were not a substitute for the original. Weighing the four statutory factors together, the court determined that Chila's use of the <i>Super Bowl Shuffle</i> was fair and granted Chila's motion for summary judgment.
Tags	Seventh Circuit; Film/Audiovisual; Music; Review/Commentary
Outcome	Fair use found

Source: U.S. Copyright Office Fair Use Index. For more information, see <http://copyright.gov/fairuse/index.html>.