

**Video Pipeline, Inc. v. Buena Vista Home Entm't, Inc.,
342 F.3d 191 (3d Cir. 2003)**

Year	2003
Court	United States Court of Appeals for the Third Circuit
Key Facts	Defendant Buena Vista Home Entertainment, Inc., a wholly owned subsidiary of The Walt Disney Pictures and Television Co., held an exclusive license to distribute Disney products in the home video market. In 1988, defendant authorized plaintiff Video Pipeline to create compilations of its video trailers and distribute the trailers to traditional home video retail outlets. In 1997, when the video retail market shifted to an internet distribution model, plaintiff began distributing the trailers over the internet, via digital streams, and charging internet video retailers for the right to access the trailers. In 2000, defendant advised plaintiff that it did not have permission to distribute its trailers on the internet. In response, plaintiff filed suit seeking a declaratory judgment that its online use of the trailers was legal pursuant to a previous licensing agreement. Defendant subsequently terminated the licensing agreement. After the licensing agreement was cancelled, plaintiff began using short segments from defendant's films to create its own movie trailers and stream them over the internet. Plaintiff then sought a declaratory judgment that its use of the segments was permissible. Defendant claimed plaintiff's use of the segments or "clip previews" infringed its copyrights in the films. Plaintiff argued that its use was protected by the first sale and fair use doctrines. The district court granted a preliminary injunction in favor of defendant.
Issue	Whether plaintiff's creation, distribution and online display of clip previews constituted fair use.
Holding	The court found that the district court correctly held that plaintiff failed to show that it was likely to prevail on its defense that its online display of the clip previews constituted fair use. Regarding the purpose and character of the use, the court found that plaintiff's use did not add new expression, meaning, or message to the original works and thus lacked transformative quality. Regarding the nature of the works, the court characterized defendant's works as "creative, non-factual expression" and weighed the factor against a finding of fair use. Regarding the amount and substantiality of the work copied, the court found that plaintiff only copied a small amount of defendant's works (full-length films) and that the copied segments did not go to the "heart" of the films, which weighed in favor of fair use. Finally, regarding the potential market effect, the court held that plaintiff's streaming of segments of defendant's works over the internet could cause cognizable harm to the market for defendant to license authorized trailers for its works.
Tags	Third Circuit; Film/Audiovisual; Internet/Digitization
Outcome	Preliminary ruling, mixed result, or remand

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