

Benny v. Loew's, Inc.,
239 F.2d 532 (9th Cir. 1956),
aff'd by an equally divided court, 356 U.S. 43 (1958)

Year	1958
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiffs were the theater chain Lowe's, Inc. (at that time, parent company of Metro-Goldwyn-Myer Studios) and an English author, Patrick Hamilton, who wrote the 1938 play <i>Gas Light</i> . In 1942, Hamilton gave Loew's the exclusive film rights for <i>Gas Light</i> , which film director Alfred Hitchcock adapted into a popular movie of the same name. In 1952, without plaintiffs' permission, defendant CBS, Inc. broadcast <i>Autolight</i> , a burlesque of Hitchcock's <i>Gas Light</i> , starring comedian Jack Benny, also a defendant. Defendants asserted that the burlesque was a fair use. Observing that this was a case of first impression, the district court held that defendants' use of substantial portions of plaintiffs' work to create a burlesque was not fair use. Defendants appealed.
Issue	Whether using substantial portions of an underlying work, such as a movie, to create a burlesque version is fair use.
Holding	The circuit court upheld the lower court's finding that the defendants' burlesque version of <i>Gas Light</i> infringed plaintiffs' copyright and was not a fair use. In particular, the court noted that the doctrine of fair use was not applicable to copying for the purpose of creating a burlesque. In rejecting the defendants' fair use argument, the court rejected defendants' assertion that their version of <i>Gas Light</i> was a parody and found that a "burlesque presentation of [a work] is no defense to an action for infringement of copyright." <i>Note:</i> This holding was invalidated by the U.S. Supreme Court's decision in <i>Campbell v. Acuff-Rose Music, Inc.</i> , 510 U.S. 569 (1994).
Tags	Ninth Circuit; Film/Audiovisual; Parody/Satire; Textual work
Outcome	Fair use not found

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