

**Henley v. DeVore,
733 F. Supp. 2d 1144 (C.D. Cal. 2010)**

Year	2010
Court	United States District Court for the Central District of California
Key Facts	Plaintiffs Don Henley and other songwriters owned copyrights in the songs <i>The Boys of Summer</i> and <i>All She Wants to Do Is Dance</i> . Defendants Charles DeVore, a candidate for the U.S. Senate, and Justin Hart, a member of DeVore’s campaign staff, recorded versions of <i>The Boys of Summer</i> and <i>All She Wants to Do Is Dance</i> with some of the lyrics changed to lampoon politicians Barack Obama and Nancy Pelosi (<i>The Hope of November</i>) as well as Barbara Boxer (<i>All She Wants to Do Is Tax</i>). Defendants used the alleged parodies in political videos that were released on YouTube. After unsuccessful attempts to stop defendants from using the alleged parodies, including sending DMCA takedown notices, plaintiffs filed suit for copyright infringement.
Issue	Whether defendants’ alleged parodies of plaintiffs’ songs used in political videos constituted fair use.
Holding	<p>The court held defendants’ repurposing of the <i>Boys of Summer</i> and <i>All She Wants to Do Is Dance</i> was not a fair use.</p> <p>Regarding <i>The Hope of November</i>, the court assumed that “parody-of-the-author” was a legitimately transformative use and found that the song’s “implicit targeting of Henley” caused the first fair use factor to weigh slightly in defendants’ favor. Nevertheless, after weighing all four factors, the court held they did not support a finding of fair use. Specifically, the court found that defendants used the song for a commercial purpose to encourage campaign contributions, used an amount of the song that went “far beyond” what was necessary to convey allegedly parodic points about Henley, and used the song in a way that could potentially diminish the market for plaintiffs to license the songs.</p> <p>Regarding <i>All She Wants to Do Is Tax</i>, the court found that all four factors weighed against a finding of fair use. Specifically, the court found that the song did not constitute a parody, that defendants used the song for a commercial purpose, that defendants used a substantial portion of the song, and that defendants used the song in a way that could potentially diminish the market for plaintiffs to license the songs.</p>
Tags	Ninth Circuit; Music; Parody/Satire
Outcome	Fair use not found

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