

**New Line Cinema Corp. v. Bertlesman Music Grp., Inc.,
693 F. Supp. 1517 (S.D.N.Y. 1988)**

Year	1988
Court	United States District Court for the Southern District of New York
Key Facts	Plaintiffs, New Line Cinema Corporation and affiliated organizations (New Line), owned the film rights for <i>A Nightmare on Elm Street (Elm Street)</i> and subsequent sequels. New Line sought to license the <i>Elm Street</i> characters and story for a music video based on the series, commencing negotiations with the popular rap group, the Fat Boys. Representatives for defendants Bertlesman Music Group and others contacted New Line about the possibility of using D.J. Jazzy Jeff and The Fresh Prince instead for the song, sending a recording by the duo called <i>A Nightmare on My Street (My Street)</i> , but negotiations between the parties ultimately failed. Later, the duo released an album which included the song <i>My Street</i> . New Line subsequently finalized a deal with the Fat Boys and ordered defendants to stop producing their record. Defendants subsequently produced a music video for the song that was not broadcast, after which the Fat Boys also released a licensed music video.
Issue	Whether the unauthorized use of a film's story and character elements in a music video was fair use.
Holding	The court ruled that defendants' use of <i>Elm Street</i> in the music video <i>My Street</i> was not fair use. The court found that defendants' music video existed solely as a video to promote the song, and defendants therefore stood to profit financially by using elements from plaintiffs' films without making the usual licensing arrangements before they produced their video. Next, the court found that <i>Elm Street</i> was a creative work of fiction or fantasy as opposed to a factual work, which weighed against a finding of fair use. The court then found that defendants had appropriated more of plaintiffs' copyright-protected works than was necessary for purposes of creating a purported parody, thus weighing against a finding of fair use. Finally, the court found that the <i>My Street</i> video, if released, would likely harm plaintiffs' market for licensing <i>Elm Street</i> character and story elements in the music video market and would directly compete with the Fat Boys video.
Tags	Second Circuit; Film/Audiovisual; Music; Parody/Satire; Unpublished
Outcome	Fair use not found

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