

**Columbia Pictures Indus., Inc. v. Miramax Films Corp.,
11 F. Supp. 2d 1179 (C.D. Cal. 1998)**

Year	1998
Court	United States District Court for the Central District of California
Key Facts	Defendant Miramax Films Corp. created an advertising poster and trailer for the Michael Moore documentary <i>The Big One</i> that incorporated elements of advertising previously used for the film <i>Men In Black</i> . Posters for both films featured figures carrying a large object standing in front of a nighttime New York skyline, and used similar colors and layout. The two films' trailers had "a virtually identical theme, format, pace, and sequence of events," and used the same music. Defendant admitted that the advertising campaign for <i>The Big One</i> was intended to parody <i>Men In Black</i> . Plaintiff Columbia Pictures Industries, Inc. filed for a preliminary injunction, alleging that defendant's poster and trailer infringed its copyright for <i>Men In Black</i> .
Issue	Whether defendant's use of expressive elements from the <i>Men In Black</i> advertising poster and trailers in an advertising poster and trailer for a documentary constituted fair use.
Holding	The court granted the injunction, holding that defendant failed to establish a likelihood of success on the merits of its fair use defense. It held that defendant's advertisements were not transformative because they "cannot reasonably be perceived as commenting on or criticizing the ads for 'Men In Black'" because they merely incorporated elements of plaintiff's advertisements. The court further held that the amount and substantiality of the portion used was not reasonable, finding that defendant's proffered justifications were unpersuasive given the non-transformative nature of the use. Finally, the court held that defendant failed to meet its burden of providing affirmative evidence relating to market harm.
Tags	Ninth Circuit; Film/Audiovisual; Painting/Drawing/Graphic; Parody/Satire
Outcome	Fair use not found

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