

**Consumers Union of U.S., Inc. v. Gen. Signal Corp.,
724 F.2d 1044 (2d Cir. 1983)**

Year	1983
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Consumers Union of U.S., Inc. (CU) published <i>Consumer Reports</i> , a magazine that provided consumer information about products and services, including household items. CU alleged that defendants, manufacturers and sellers of vacuum sweepers, infringed by quoting a CU article in two television commercials for vacuum sweepers without plaintiff's authorization. Both commercials disclaimed any affiliation with CU or any endorsement by CU. Defendants appealed the district court's grant of a preliminary injunction to plaintiff.
Issue	Whether defendants' unauthorized quotation of a <i>Consumer Reports</i> article in a television commercial for vacuum sweepers constituted fair use, requiring that a preliminary injunction against defendants be vacated.
Holding	The Second Circuit reversed the district court and vacated the preliminary injunction, holding that defendants' use was a fair use. The court found that, although defendants' use of plaintiff's work was obviously commercial in nature, the advertisements conveyed useful information protected by the First Amendment. Further, the court found that the defendants' purpose was to report factual information, weighing in favor of a finding of fair use. The court then determined that the informational—as opposed to creative—nature of plaintiff's publication favored a finding of fair use. The court then noted that defendants used only twenty-nine words out of the 2,100 words contained in the relevant article, a relatively insubstantial use. Finally, regarding the market effect, the Second Circuit rejected the district court's emphasis on the adverse impact of defendants' use on plaintiff's reputation as an unbiased reviewer of consumer products. The fourth factor, the court reasoned, "is aimed at the copier who attempts to usurp the demand for the original work," and there was no convincing evidence that defendants' commercial would substitute for back issues of <i>Consumer Reports</i> .
Tags	Second Circuit; Film/Audiovisual; Textual work
Outcome	Fair use found

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