

**Warner Bros., Inc. v. Am. Broad. Cos., Inc.,  
654 F.2d 204 (2d Cir. 1981)**

Year	1981
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiffs, Warner Bros., Inc. and D.C. Comics, Inc., owned copyrights for the character “Superman” and works embodying Superman, including comic books, animated and live-action television series, and a motion picture. Defendant, ABC, Inc. created a television series called <i>The Greatest American Hero</i> which starred the fictional superhero “Ralph Hinkley.” Plaintiffs alleged that defendant’s Ralph Hinkley character and related promotional campaign materials infringed its Superman copyrights. The district court refused to grant plaintiffs a preliminary injunction and temporary restraining order against defendants, because it determined that plaintiffs were unlikely to prevail on the issue of whether the characters were substantially similar. The district court also indicated that defendant’s character was a parody that was protected by the fair use doctrine.
Issue	Whether defendant’s superhero character infringed plaintiffs’ copyright in the Superman character.
Holding	The court found that the Superman and Ralph Hinkley characters were not substantially similar, therefore defendant’s character did not infringe plaintiffs’ copyrights. Although the fair use defense was not raised or at issue, the court briefly addressed the district court’s discussion of the parody defense. The court noted that while the defense may be available in “isolated instances” where a nearly identical script or an express reference to a character is made, it questioned “whether the defense could be used to shield an entire work that is substantially similar to one in competition with the copyrighted work.”  <i>Note: See also Warner Bros., Inc. v. ABC, Inc., 720 F.2d 231 (2d Cir. 1983).</i>
Tags	Second Circuit; Film/Audiovisual; Parody/Satire; Painting/Drawing/Graphic
Outcome	Preliminary ruling, mixed result, or remand

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