

Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC
139 S. Ct. 881 (Mar. 4, 2019)

- Registration (or refusal of registration) required before a suit for copyright infringement can be filed.
- A pending application is not sufficient.
- Resolves split in the circuits.

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Rimini Street, Inc. et al v. Oracle USA, Inc., et al.
139 S. Ct. 873 (Mar. 4, 2019)

- “Full costs” under § 505 means the costs provided by 28 U.S.C. § § 1821 and 1920.
- Does not include costs for e-discovery, jury consultants, or a party’s expert(s).

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VHT, Inc. v. Zillow Grp., Inc., 918 F.3d 723 (9th Cir. Mar. 15, 2019)

- VHT is a real estate photographer. Zillow used VHT's photos on its "Digs" section of the website, where users could search for various "looks."
- Zillow argued that it was making a "search engine" use of the photos. Court said "search engine" is not a talismanic term, and this case is distinguishable from typical search engine cases.
- Use of photos was for the same purpose as the originals. No fair use.

Peterman v. Republican Nat'l Comm., CV 17-66-M-DLC, 2019 WL 859049 (D. Mont. Feb. 22, 2019)

- Peterman was paid to take a photo of a Democratic candidate and gave full license to the Montana Democratic Party.
- Republic Party modified a copy of the image.
- Fair use found on cross-motions for summary judgment.

Otto v. Hearst Commc'ns, Inc., 345 F.Supp.3d 412 (S.D.N.Y. Dec. 10, 2018)

- Otto was a guest at a wedding that occurred at the Trump National Golf Course in New Jersey. Trump made a surprise appearance and Otto took a photo.
- Heart picked up the photo and posted it.
- Neither newsworthy nor transformative. No fair use.

Davidson v. United States, 138 Fed. Cl. 159 (Fed. Cl. June 29, 2018)

- USPS used a photo of Robert Davidson's sculpture of Lady Liberty on a stamp, not realizing that it wasn't the public domain Statue of Liberty.
- USPS bought a license to use the photo from Getty Images, but Getty didn't have the rights to the underlying sculptural work.
- Not fair use.

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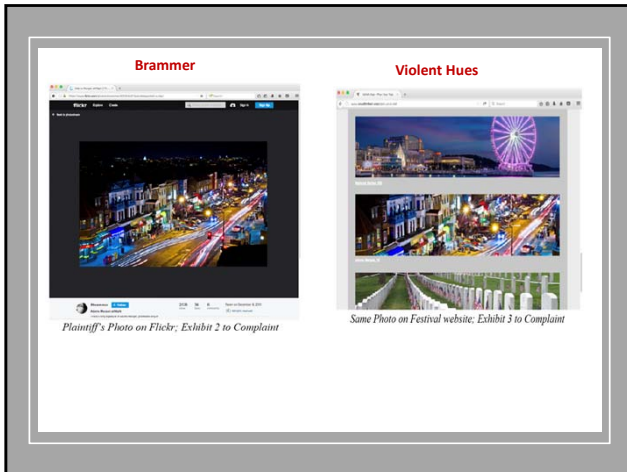


Brammer v. Violent Hues Productions, LLC, 127 U.S.P.Q.2d 1053 (E.D. Va. June 11, 2018)

- Use of photo was "purely for factual content, to provide festival attendees a depiction of the Adams Morgan neighborhood."
- Use was transformative, non-commercial, and in good faith.

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Bell v. Powell, 350 F.Supp.3d 723 (S.D. Ind. Oct. 11, 2018)

- Use of photo in brochure was for informational purposes and was thus transformative fair use.

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Dr. Seuss Enterprises LP v. ComicMix LLC, (S.D. Cal. Mar. 12, 2019)

- Star Trek parody, entitled *Oh, the Places You'll Boldly Go!*
- Held to be highly transformative.
- Plaintiff could not show harm to the market for its original book by a preponderance of the evidence. Thus the book was a fair use.

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Termination

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***Horror Inc. v. Miller*, 335 F.Supp.3d 273 (D. Conn. Sept. 28, 2018)**

- The screenplay for *Friday the 13th* was not a work for hire, and therefore license is subject to termination.
- Neither producer or investors qualified as joint authors.

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Termination Cases to Watch

- *Johansen et al v. Sony*, 1:19-cv-01094 and *Waite et al. v. UMG*, 1:19-cv-01091 (both filed February 5, 2019 in the S.D.N.Y.).
- Each case challenges the labels' refusals to honor notices of termination on the grounds that the recordings were made "for hire."

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Music



***Capital Records, LLC v. ReDigi Inc.*, 910 F.3d 649 (2d Cir. Dec. 12, 2018)**

- Sale/transfer of digital files held a violation of the reproduction right under 17 U.S.C. § 106(1).
- Court found it unnecessary to opine on applicability of first sale doctrine.

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***ABS Entertainment, Inc. v. CBS Corporation*, 908 F.3d 405 (9th Cir. Oct. 31, 2018)**

- Remastering case.
- On remand, district court must consider the effect of the Music Modernization Act.

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***Skidmore for Randy Craig Wolfe Tr. v. Led Zeppelin*, 905 F.3d 1116 (9th Cir. Sept. 28, 2018)**

- Court holds that the scope of copyright protection for an unpublished work under the 1909 Act is defined by the deposit copy.
- Refusing to allow the jury to hear the recording of “Taurus” was an abuse of discretion.
- Case remanded for a new trial.



Source: YouTube

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