

**Swatch Grp. Mgmt. Servs. Ltd. v. Bloomberg L.P.,
742 F.3d 17 (2d Cir. 2014)**

Year	2014
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Swatch Group Management Services, Ltd., a foreign public company, convened a conference call with financial analysts to discuss its recently released earnings report. Afterward, defendant Bloomberg, LP, a financial news and data reporting service, obtained a sound recording of the call without authorization and disseminated it online to paid subscribers. Plaintiff filed a claim alleging infringement of its copyright in the sound recording. Plaintiff appealed the district court's ruling that it was fair use for defendant to obtain and distribute the sound recording.
Issue	Whether defendant's copying and dissemination, as part of a subscription financial news and data reporting service, of Swatch's sound recording of a conference call with financial analysts discussing its recently released earnings report qualified as fair use.
Holding	The court held that defendant's actions qualified as fair use. The court held that the first statutory factor favored fair use because, though defendant copied and distributed the recording without changing it, defendant's use served the important public purpose of disseminating important financial information. The court determined that such use did not harm the copyright interests of the author, and that a use need not be transformative to be deemed "fair." The court further held that the second factor favored fair use because plaintiff controlled the first dissemination of its company's expression, and its copyright in the sound recording was "thin" at best. The court further held that using the recording in its entirety was reasonably necessary in light of defendant's purpose of disseminating financial information, and that this type of use would not significantly impair the value of earnings calls nor appreciably alter incentives for creation of such original expression, especially given the fact that plaintiff conceded that they had no interest in the exploitation of the copyright-protected aspects of the work.
Tags	Second Circuit; News reporting; Unpublished
Outcome	Fair use found

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