

**Clean Flicks of Colo., LLC v. Soderbergh,
433 F. Supp. 2d 1236 (D. Colo. 2006)**

Year	2006
Court	United States District Court for the District of Colorado
Key Facts	Plaintiffs used film editing techniques to mechanically redact what they considered inappropriate audio and visual elements from copyrighted films. They legally acquired defendants' films, primarily as DVDs, and then sold or rented their edited versions, generally accompanied with the deactivated original copies, through established retail outlets. Plaintiffs asked the court for a declaratory judgment that they were not infringing defendants' works. Defendants, motion picture studios, counterclaimed that plaintiffs infringed their copyrights by editing their films to create and sell derivative works.
Issue	Whether the unauthorized editing of studios' films to eliminate allegedly harmful or objectionable subject matter for public distribution constituted fair use.
Holding	The court held that public distribution of edited versions of plaintiffs' films for the purpose of eliminating objectionable content did not constitute fair use. It ruled that the edited film versions were not transformative because they added nothing new to the originals. It further held that the "amount and substantiality" factor weighed against a finding of fair use because the movies were copied in their entirety for non-transformative use. Regarding the fourth factor, plaintiffs claimed that there was no adverse effect on the market for the films because they maintained a one-to-one ratio between original and edited films, and that but for their editing, the defendants would not have sold those particular original copies. The court, however, stated that this argument ignored the defendants' "right to control the content of the copyrighted work," and further remarked that "[w]hether these films should be edited in a manner that would make them acceptable to more of the public ... is a question of what audience the copyright owner wants to reach." The court also found that editing the versions as a form of comment or criticism was a public policy argument that was not appropriately raised in the copyright context.
Tags	Tenth Circuit; Film/Audiovisual
Outcome	Fair use not found

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