

**Leadsinger, Inc. v. BMG Music Publ'g,
512 F.3d 522 (9th Cir. 2008)**

Year	2008
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff Leadsinger, Inc. manufactured karaoke systems that projected lyrics and still photographs onto a television screen to accompany songs in real time. Defendant BMG Music Publishing issued plaintiff a compulsory mechanical license to cover the musical compositions played on the karaoke machines but also demanded that plaintiff pay a “lyric reprint fee” for copies of lyrics occasionally included with the karaoke machines and a “synchronization fee” for synchronizing the musical compositions in audiovisual works. Plaintiff refused to pay the additional fees and sought a judgment declaring that it did not have to pay them (1) because it was only required to pay for a mechanical license or (2) because displaying and printing the lyrics was fair use. Plaintiff appealed the district court’s order dismissing the case for failure to state a claim.
Issue	Whether it was fair use for plaintiff to distribute copies of song lyrics in conjunction with a karaoke system and synchronize the lyrics in an audiovisual work without paying any fees beyond a compulsory license.
Holding	The court held that plaintiff’s publication and display of song lyrics was not fair use. Rejecting the argument that a karaoke machine should be considered a teaching tool, the court held that plaintiff’s use was non-transformative and clearly commercial because the goal was to sell karaoke devices. The court also held that plaintiff’s use of the song lyrics in their entirety weighed against a finding of fair use. Regarding the effect of the use on the potential market for defendant’s works, the court noted that when a use is for commercial gain, the likelihood for market harm may be presumed.
Tags	Ninth Circuit; Education/Scholarship/Research; Film/Audiovisual; Music; Photograph; Textual work
Outcome	Fair use not found

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