

**Fox News Network, LLC v. TVEyes, Inc.,
43 F. Supp. 3d 379 (S.D.N.Y. 2014)**

Year	2014
Court	United States District Court for the Southern District of New York
Key Facts	<p>Defendant TVEyes, Inc. (TVEyes) is a media-monitoring service that enables its subscribers to search for and track when keywords or phrases of interest are uttered on television or radio by recording the content of more than 1,400 television and radio stations and creating a searchable database of that content. TVEyes displays search and tracking results to subscribers by providing them with thumbnail images, snippets of transcripts, and short video clips. TVEyes does not store content longer than thirty-two days, but subscribers can independently save, archive, edit, and download an unlimited number of short video clips generated by the service. Subscribers can also email these clips directly to others, including non-subscribers. Additionally, TVEyes allows subscribers to access live-streams of television and radio programming as it is recorded. TVEyes is available only to businesses and not to the general public.</p> <p>Plaintiff Fox News Network, LLC (Fox) claimed TVEyes infringed the copyrights to nineteen of Fox's programs by copying the programs, importing them into a searchable database, and making them available to TVEyes' subscribers to play, save, edit, archive, download, and share.</p>
Issue	Whether defendant's copying and distribution of plaintiff's copyright-protected programming in the context of a media-monitoring service that (i) allowed users to search, track, and index content; (ii) displayed thumbnail images, snippets of transcripts, and short video clips in search or tracking results; and (iii) allowed subscribers to save, archive, download, email, and share search and tracking results was protected under the fair use doctrine.
Holding	<p>The court found that TVEyes' copying of Fox's content for search, tracking and indexing purposes as well as its distribution of clips and snippets in search results was fair use. In reaching this conclusion, the court determined that TVEyes' use of protected programming was transformative, finding the service akin to a database that converted copyrighted works into a "research tool," and that subscribers used the service's search and tracking results primarily for "research, criticism, and comment." The court did not find that the nature of the copyrighted work or the extent of the copying weighed in favor of either party. Finally, the court found that it was unlikely that the TVEyes service would cause any adverse effect on the market for the copied programming.</p> <p>Because the factual record was insufficient, the court did not rule on whether or not the features of the TVEyes services that allowed subscribers to save, archive, download, email, and share search and tracking results were protected by fair use. It also did not rule on whether a feature of the TVEyes service that allowed subscribers to search for television clips by date and time instead of by keyword or term was fair use.</p>
Tags	Second Circuit; Education/Scholarship/Research; Film/Audiovisual; Internet/Digitization; News Reporting
Outcome	Preliminary ruling, mixed result, or remand