

**Byrne v. BBC,
132 F. Supp. 2d 229 (S.D.N.Y. 2001)**

Year	2001
Court	United States District Court for the Southern District of New York
Key Facts	Defendant BBC (British Broadcasting Corporation) filmed and recorded a live broadcast of a U.S. radio program, including theme music written by plaintiff Christopher Byrne. Byrne had authorized the radio program to use the song, but had not extended permission to the BBC to record the theme song as part of filming the radio show broadcast, or to rebroadcast the song when the BBC used the recorded footage in the United Kingdom as part of a news report. Byrne filed an infringement claim against the BBC. The BBC moved for partial summary judgment of non-infringement.
Issue	Whether it was fair use for the BBC to record plaintiff's song as part of a radio program it filmed for a news broadcast.
Holding	The court denied plaintiff BBC's motion for summary judgment because it found that disputed issues of material facts regarding fair use still existed. Specifically, the court found that the analysis would be influenced by whether a jury determined that the purpose of the use was to entertain rather than inform, and could also turn on the availability of equally informative non-infringing alternatives. Furthermore, the court found that the BBC's status as a non-profit organization did not confer "special immunity from determinations of copyright violation." Rather, "[t]he question . . . is the purpose and character of the use, not of the alleged infringer."
Tags	Second Circuit; Film/Audiovisual; Music; News reporting
Outcome	Preliminary ruling, mixed result, or remand

Source: U.S. Copyright Office Fair Use Index. For more information, see <http://copyright.gov/fair-use/index.html>.