

**Sony Computer Entm't Am., Inc. v. Bleem, L.L.C.,
214 F.3d 1022 (9th Cir. 2000)**

Year	2000
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff Sony Computer Entertainment America, Inc. created videogames designed to be played only on Sony PlayStations. Defendants Bleem, LLC, David Herpolsheimer, and Jaime Felix developed a computer program that made it possible to play Sony games on a standard PC, which has the capability for higher video resolution than Sony PlayStations. To demonstrate that difference, defendants included “screen shots” in advertising that compared the same scene as displayed on a PlayStation and a PC. Plaintiff sued, alleging copyright infringement and seeking an injunction to prevent defendants from using the screen shots. The district court ruled in favor of Sony, entering a preliminary injunction against Bleem. Defendants appealed the district court’s ruling that their use of the screen shots in the advertisement was not fair use.
Issue	Whether defendants’ use of screen shots comparing plaintiff’s videogames on PCs and Sony PlayStations was fair use.
Holding	Vacating the lower court’s injunction, the circuit court held that defendants’ use of actual (as opposed to simulated) screen shots for the purpose of comparative advertising was fair use. While defendants’ use was for a commercial purpose, the court found that use of the screen shots for comparative advertising weighed in favor of fair use because it provided information to the public and would likely encourage innovation. Additionally, the court found that defendants’ use of screen shots took an insignificant portion of the work and there was not a market for the screen shots. The court further noted that, even if there was a market for screen shots, defendants’ use of “a handful” of screen shots would have no noticeable effect on the plaintiff’s ability to “do with its screen shots what it chooses.”
Tags	Ninth Circuit; Computer program
Outcome	Preliminary ruling, mixed result, or remand

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