

## Is my parody of another's copyrighted work protected fair use?

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**Answer:** It is likely that a bona fide parody, as opposed to satire, that does not usurp the market for plaintiff's work or unfairly free ride on plaintiff's work will be protected as a fair use. See *Campbell v. Acuff-Rose Music*, 510 US 569 (1994). Courts have held that the fair use defense can protect a parody of a copyrighted work from an infringement claim. However, that does not necessarily mean that all parodies will be protected. In the case of a parody where the defendant raises a fair use defense, the courts will run through the four part fair use analysis just as they would with any other fair use test. [See above for the four part test].

While it is problematic to try to predict what a court will decide in any fair use case, it is likely that in the case of a parody the court will focus on the fourth factor of the inquiry, which requires the court to ask what effect the parody has on the potential market for the copyrighted work. If the parody usurps the market for the copyrighted work, then there is an increased chance that the court will find that the use is not fair. If the parody dampens the market for the copyrighted work as a result of its implicit criticism of the work, such a negative effect on the market does not render such use unfair.