

Introduction

The policy chosen for the purpose of analysis for this paper is the Acceptable Use Policy(AUP). Acceptable Use, also known as Fair Use policy, is defined by Wikipedia as “a set of rules applied by the owner, creator, possessor or administrator of a computer network, website, or service that restricts the ways in which the network, website or system may be used and sets guidelines as to how it should be used.” In layman’s terms, Fair Use Policy is a policy created to make sure that any type of technology, whether software or hardware, is used the way that it was intended. In the realm of technology, people often find ways to abuse new tools they come across, which in turn will lead to disputes on what is an actual misuse of the platforms and what is just an example of people taking advantage of their rights to using the full capabilities of what they have access to. Fair Use prevents these situations from happening by defining the Do’s and Don’ts prior to any type of conflict with the platform. An example of an infringement of fair use, as provided by Fairuse.Stanford.edu would be “An author copied more than half of an unpublished manuscript to prove that someone was involved in the overthrow of the Iranian government.” (Summaries of Fair Use Cases).

Political Response

According to Cathay Y. N. Smith in a William and Mary law review article “During election season, politicians and political campaigns often use pop culture or iconic works, such as viral memes or popular songs, to help convey their political messages—often without authorization from the copyright owners of these works.” (Political Fair Use). This is a prime

example of the political implications brought by fair use, politicians often don't favor fair use policy because they themselves like to violate it. Smith included in her article that while some politicians like to argue that policies such as the copyright act may subdue their first amendment right to fully express themselves, Smith argues that a policy such as fair use acts as a First Amendment safeguard to define the difference between a citizen exercising their first amendment rights and when they're abusing their freedoms to violate others'.

Examples

Former U.S. president Donald Trump was a part of a fair use violation lawsuit in which he used the 1983 hit "Electric Avenue". Trump argued that it was "transformative to use the song over a cartoon version of Joe Biden driving an old-fashioned train car interspersed with his rival's speeches." and that "The purpose of the Animation is not to disseminate the Song or to supplant sales of the original song." (Trump uses fair use defense). Despite Trump's allegations, he was still found guilty of copyright infringement.

Another example of a violation of fair use was the infamous Campbell v. Acuff-Rose Music case. Luther Campbell, a member of the Rap music group 2Livecrew, created a song called "pretty woman", which was a parody of Roy Orbison's "Oh Pretty Woman". During the court hearing however, it was determined that Campbell's song "quickly degenerates from the original and only used no more than was necessary of the original to create the parody." (Campbell v. Acuff-Rose Music, Inc.). The general outcome to come from this case was that parody could qualify under fair use, and although Campbell was making money from the song, it didn't negatively affect the market for the original song.

Conclusion

Throughout the cases given, it seems evident that politicians and even citizens in general tend to only lean into the concept and right of fair use when it benefits them. While Trump proved Cathy Smith's claim that politicians will often complain about the fair use policy to be correct with his anti-Joe Biden campaign, the Campbell v. Acuff-Rose Music case also proved her take that fair use is actually in place to protect the first amendment, not hinder it, to be correct as well. While politicians may not favor it when they face these sudden lawsuits, it remains evident that general society has no issue with the concept of fair use.

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