

**Fin. Info., Inc. v. Moody's Investor Serv., Inc.,
751 F.2d 501 (2d Cir. 1984)**

Year	1984
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Financial Information, Inc. offered a subscription service called <i>Financial Daily Called Bond Service</i> that gave subscribers information about municipal bonds. The service included <i>Daily Bond Cards</i> formatted index cards about redeemable or callable municipal bonds. Defendant Moody's Investor Services, Inc. offered a similar subscription service, <i>Moody's News Reports</i> . Financial Information alleged copyright infringement when it became aware that Moody's was copying aspects of its service. The district court ruled that Moody's copying was fair use, as there was no evidence that Moody's occasional use of plaintiff's factual information adversely affected plaintiff's sales, and Moody's publication sometimes served the public function of giving legal notice. Plaintiff appealed.
Issue	Whether defendant's allegedly occasional, unauthorized copying and publication of plaintiff's financial data for a similar purpose was fair use.
Holding	The Second Circuit reversed the lower court's finding of fair use, in light of the U.S. Supreme Court decision in <i>Sony Corp. of Am. v. Universal Studios, Inc.</i> , 464 U.S. 417 (1984), decided a week after the district court's ruling. Regarding the first fair use factor, the appellate court held that, under <i>Sony</i> , defendant's use was commercial, and therefore presumptively unfair. The court indicated that it was "disinclined to place great importance on [the second] factor" and noted that the "'non-creative' and purely commercial" nature of the copied material did not favor either party in a fair use analysis. Regarding the third factor, the court found that defendant's substantial, wholesale copying of plaintiff's work favored a finding of fair use. Finally, regarding the fourth factor, the court found that although plaintiff and defendant did not offer identical products in "nose-to-nose rival sales," defendant's copying could have a negative commercial impact on the market for plaintiff's works.
Tags	Second Circuit; Textual work
Outcome	Fair use not found

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