

Case 14: Does giving credit let the crew use the song?

Content note

This case explains general rules. It is not legal advice for your situation.

Overview

Students read a story in which Caio’s film recap uses a sampled track and a six-second TikTok clip. Mateo wants to post it tonight with a credit in the caption. They separate attribution, permission and fair use, then apply the U.S. Copyright Office’s four fair-use factors to the crew’s planned use. They then complete a rights log and propose a licensed or original alternative.

Before this case

Students should already be able to:

- summarize a legal decision from a short official summary
- apply a named rule to a new example
- write an explanatory text of about 300 words

Objectives

Students will be able to:

- state the holding of Andy Warhol Foundation v. Goldsmith accurately in their own words
- explain how the holding shapes the purpose factor

Objectives, continued

- apply the purpose factor carefully to the crew’s use of the song
- recommend a path without giving legal advice

Materials

- This chapter, one copy per student
- Evidence A, B and C
- The U.S. Copyright Office’s one-page summary of Andy Warhol Foundation v. Goldsmith (2023)
- The U.S. Copyright Office fair-use page

The task in this edition

Task: Write a brief on how the Supreme Court’s 2023 Warhol v. Goldsmith decision shapes the “purpose” factor, applied to the crew’s film.

Students make: Brief, 450—550 words

Pacing

Opener (page 269): 5 min. Short on time: 4 min. Read What happened aloud and go straight to the evidence.

Key terms (pages 270 and 271): 5 min. Short on time: skip.

Look at the evidence (page 275): 8 min. Short on time: 8 min.

Pacing, continued

Look at the evidence (page 276): 4 min. Short on time: 3 min. Students fill in only the “What it shows” box.

Key idea (pages 277 and 278): 10 min. Short on time: 8 min. Skip the In the news section.

Sort the evidence (page 279): 8 min. Short on time: skip.

Practice (pages 280 and 281): 6 min. Short on time: skip.

Your task (pages 282 and 283): 15 min. Short on time: 12 min. Read the Warhol summary aloud together before students fill in the planner.

Your draft (page 284): 25 min. Short on time: 20 min. Students draft the holding and application paragraphs in class and finish at home.

Check your work (pages 285 and 286): 6 min. Short on time: skip. Collect drafts and score them with the rubric yourself.

Questions to discuss (pages 287 and 288): 10 min. Short on time: 5 min. Use question 1 as an exit ticket.

Talk about this case at home (page 289): at home.

Periods: full chapter 102 minutes; one period 60 minutes.

Case 14 plan, continued

Standards

- RI.11-12.1** Back up an analysis with the strongest evidence from the text, including where the text leaves things uncertain.
- W.11-12.1** Write arguments that analyze substantial topics or texts, using valid reasoning and enough relevant evidence.
- W.11-12.5** Strengthen writing by planning, revising, editing or rewriting, focusing on what matters most for the purpose and audience.
- SL.11-12.1.c** Keep a discussion moving with questions that probe reasoning and evidence, and make sure the full range of views is heard.
- SL.11-12.1.d** Respond to different views, pull together what each side says, resolve conflicts where possible and name what still needs research.
- D2.Civ.3.9-12** Analyze how constitutions, laws, treaties and international agreements affect national and international order. In this case: Students analyze the impact of copyright law on creative communities.
- D2.Civ.12.9-12** Analyze how people use and challenge laws at different levels to address public issues. In this case: Students analyze how creators use and challenge copyright rules.

Standards, continued

D2.Civ.10.9-12 Analyze how personal interests and perspectives affect the use of civic virtues, democratic principles and rights. In this case: Students analyze how personal interest in a project shapes how people read the rules.

Codes of ethics

- **AIGA Standards of Professional Practice:** The designer’s responsibility to other designers
- **RTDNA Code of Ethics:** Independence and transparency
- **PRSA Code of Ethics:** Competition

Heat map

- **Opener (page 269):** Low
- **Key terms (pages 270 and 271):** Low
- **Look at the evidence (page 275):** Low
- **Look at the evidence (page 276):** Low
- **Key idea (pages 277 and 278):** Low
- **Sort the evidence (page 279):** Low
- **Practice (pages 280 and 281):** Low
- **Check your work (pages 285 and 286):** Low

Try it at your school

- Start a rights log for your next project.**
- List every outside clip, image, sound and quote before you edit

Try it at your school, continued

- Record the source and the license or permission for each
- Use your school’s licensed media or openly licensed libraries when you can
- Ask your media teacher or librarian about uses you’re unsure of

Who to ask: School librarian or media specialist, a media or film teacher, a college library’s copyright help page

Safety: Don’t share other people’s creative work as your own. If you get a takedown notice, talk with a trusted adult before responding.

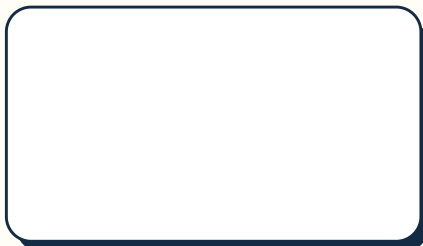
Sources

- NPR, “TikTok removes music from UMG artists, including Olivia Rodrigo and Taylor Swift,” February 1, 2024
- U.S. Copyright Office, “Fair Use Index,” No date listed

Case 14: Does giving credit let the crew use the song?

Mateo wants to post the crew's film tonight and credit the song's artist, but Caio wants to check the license first.

On your own Read What happened and underline the two pieces of the film that the crew did not make. About 5 minutes.



Caio, Mateo and Rafa laugh as they look at photos on a small digital camera.

Your role: You're the one who fills in the rights log before the film goes up. **New skill:** Check permission, not just credit.

What happened

It is Friday night, and Caio, 24, is editing the crew's festival film. The film is a short recap made from crew footage and interviews. At 9:40 p.m., he saves a rough cut. For 20 seconds, a released song plays under the setup montage. Caio pitched the song up slightly, and the song sets the mood for the whole scene.

The cut borrows one more piece. From 1:40 to 1:46, it shows a six-second clip downloaded from a TikTok post. That post used Stitch, TikTok's remix tool. The crew did not make the song or the clip.

At 10:02 p.m., Mateo texts the crew chat: "We'll credit them in the caption. Post tonight?" He wants the film online tonight. Caio asks what the credit gets them, and Mateo does not have an answer. Caio wants to check the license before they post.

Your question: Does a credit give the crew permission to use the song, and what should they do before they post?

Pacing

Full chapter: 5 min.

Short on time: 4 min. Read What happened aloud and go straight to the evidence.

Say this

"Mateo wants to post tonight with a credit in the caption. Is that enough?" — Hold a quick thumbs-up or thumbs-down vote. Do not settle it yet.

Watch for

Misconception: Students treat credit as permission. **Listen for:** "They gave credit, so it's fine." **Then:** Ask what question a credit answers. Write "Who made it?" and "Who said yes?" on the board.

Support

- Read What happened aloud while students follow along.

Heat check

Low.

Key terms

On your own Read each key term and its example, then write your first guess in the box. About 5 minutes.

Attribution Attribution is naming the person who made a work, such as a song, a photo or a video.

En español: atribución

In this case: Mateo's plan, "We'll credit them in the caption," would name the artist. It answers who made the song, not whether the crew may use it.

License A license is permission from a rights holder to use a work under specific terms.

En español: licencia

In this case: The rights log says "permission unknown" for both borrowed pieces. A license from each owner would fill in that column.

Fair use Fair use is a part of U.S. copyright law that allows some uses without permission, judged case by case with four factors.

En español: uso justo

In this case: The crew would weigh the four factors for 20 seconds of a released song used as background mood. No number of seconds settles it.

Who is involved

Caio

Editing the crew's festival film

"Twenty seconds of that song carries the whole montage. That's exactly why I can't just borrow it and hope."

Mateo

Wanted the film online tonight

"I really texted 'we'll credit them, post tonight?' Then Caio asked what the credit gets us. I didn't have an answer."

Pacing

Full chapter: 5 min.

 Short on time: skip this page.

Say this

"Write your first guess now. You will check it against the evidence later." — First guesses stay private unless a student wants to share.

Watch for

Misconception: Students hear "fair use" as any use that seems fair. **Listen for:** "It's fair because they aren't making money." **Then:** Point to "judged case by case on four factors." Everyday fairness does not decide it.

Support

- Draw three boxes: credit, permission, fair use. Students add one detail from the case to each box.
- **Cognates:** attribution (atribución), license (licencia), permission (permiso), credit (crédito), music (música), original (original), factor (factor), purpose (propósito), market (mercado).

Heat check

 Low.

Answer key

Any first guess is fine. Students return to it on the My take page.

Your first guess

Before you look at the evidence, do you think a credit in the caption lets the crew use the song?

My first guess is ___, because ___.

➤ My first guess is that it depends on the license, because naming an artist does not show that the owner agreed.

Notes

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

This page continues page 270. The notes for both pages are on the sheet for page 270.

Reading passage

Four factors and a rights log

On your own Read the passage. At each Stop and think box, pause and answer the question in your head or with a partner. About 5 minutes.

Words to know

- **Attribution:** Attribution is naming the person who made a work, such as a song, a photo or a video.
- **License:** A license is permission from a rights holder to use a work under specific terms.
- **Fair use:** Fair use is a part of U.S. copyright law that allows some uses without permission, judged case by case with four factors.
- **Disclosure:** A disclosure is a clear statement that tells people about a relationship or fact they would want to know.

The story: Post tonight, or check first?

At 9:40 on a Friday night, Caio, 24, saves a rough cut of the crew's festival film. The recap mixes crew footage and interviews, and one choice makes it work. From 0:18 to 0:38, a released song, pitched up slightly, plays under the setup montage. A second borrowed element sits later in the timeline. From 1:40 to 1:46, the cut includes six seconds downloaded from a TikTok post that used Stitch, the app's remix tool. Neither piece belongs to the crew.

Mateo, who likes turning "we should" into a plan, wants the film online that night. At 10:02 p.m., he proposes a solution that feels responsible: credit the artists in the caption and post. Caio's answer is a single question. What does the credit get them? Mateo admits he does not know.

By the next day, Mateo has worked out why his instinct was wrong. He remembers when Universal Music Group's deal with TikTok ran out and videos went silent. Nobody had forgotten to credit Taylor Swift. He also rethinks the clip. He had figured Stitch covered it, but Stitch is for TikTok, and this is a festival film.

Your role is to fill in the rights log before the film goes up.

Stop and think. Mateo's first plan felt responsible. What did it get right, and what did it miss?

⌚ Pacing

Reading: about 5 min (705 words). Short on time: read it aloud together, pausing at each Stop and think.

❓ Stop and think

1. **After "The story: Post tonight, or check first?":** Mateo's first plan felt responsible. What did it get right, and what did it miss?
2. **After "Separating attribution, license and fair use":** Apply the four fair-use factors to the six-second TikTok clip. Which factor is hardest to judge?
3. **After "Licensing, courts and professional norms":** Why might a platform's license for a clip not follow the clip to a festival screening?

Separating attribution, license and fair use

Attribution is naming the person who made a work, such as a song, a photo or a video. A **license** is permission from a rights holder to use a work under specific terms. The two answer different questions, “Who made this?” and “Did the owner say yes to this use?” A caption credit supplies the first and not the second. Case 8’s **disclosure**, a clear statement that tells people about a relationship or fact they would want to know, is a useful comparison. Like attribution, disclosure makes a post more honest. Neither one grants rights.

The rights log applies the Case 1 skill of tracing material to its source. For each element, it records who made it, where it came from, the permission or license and the date. Both current rows read “permission unknown.” The log also shows what the crew does not yet know, including what the TikTok creator agreed to when posting.

Without a license, the remaining path is **fair use**, a part of U.S. copyright law that allows some uses without permission, judged case by case with four factors. The factors are the purpose of the use, the nature of the original work, the amount used and the effect on the original’s market. The analysis resembles Case 12’s reasoning from precedent: you set the facts of your use against a standard and weigh each factor, rather than looking for a single rule. For the song, the purpose is setting a mood in a recap, the original is a released creative recording, the amount is 20 seconds and the effect on the market is uncertain. Caio’s pitch change does not transform the purpose. No duration is automatically safe, and a short excerpt can weigh heavily if it is the most recognizable part.

Caio’s backup plans take the question off the table: a library track with clear terms, or a drum loop that Dec records and the crew owns. The film goes up Sunday instead of Friday.

? **Stop and think.** Apply the four fair-use factors to the six-second TikTok clip. Which factor is hardest to judge?

Licensing, courts and professional norms

The UMG and TikTok dispute showed how platform licenses work. When the deal expired in February 2024, videos using UMG artists’ songs went silent (NPR, February 1, 2024). Researchers later studied what the roughly three-month blackout meant for creators, artists and the platform (Harvard Business School Working Knowledge, March 5, 2025).

The Supreme Court’s 2023 decision in the Warhol case shows how the purpose factor works. The Court ruled against the Andy Warhol Foundation, finding that Warhol’s version of a photograph was not fair use when it served the same purpose as the original (NPR, May 18, 2023). The Copyright Office publishes a one-page summary of the facts and holding (U.S. Copyright Office, 2023). Its Fair Use Index stresses that fair use is decided case by case and that a use for education is not automatically fair (U.S. Copyright Office, updated July 2026).

This page continues page 272. The notes for both pages are on the sheet for page 272.

Licensing, courts and professional norms, continued

News organizations treat the issue as an ethical one too. The RTDNA code states, “Using someone else’s work without attribution or permission is plagiarism” (RTDNA Code of Ethics, June 11, 2015).

? Stop and think. Why might a platform’s license for a clip not follow the clip to a festival screening?

Sources

Real source | NPR | February 1, 2024

TikTok removes music from UMG artists, including Olivia Rodrigo and Taylor Swift

Real source | Harvard Business School Working Knowledge | March 5, 2025

What Happened When TikTok Songs Went Silent for Three Months

Real source | NPR | May 18, 2023

Supreme Court sides against Andy Warhol Foundation in copyright infringement case

Real source | U.S. Copyright Office | 2023

Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith (Fair Use Index summary)

Real source | U.S. Copyright Office | July 2026

Fair Use Index

Real source | Radio Television Digital News Association (RTDNA) | 2015

RTDNA Code of Ethics

Notes

This page continues page 272. The notes for both pages are on the sheet for page 272.

Look at the evidence

On your own Read each document, then fill in both boxes under it. About 8 minutes.

Evidence A | Edit timeline

Caio's rough cut, Friday, 9:40 p.m.

0:00—0:18 crew footage, no music. 0:18—0:38 sampled track, pitched up slightly, under the setup montage. 0:38—1:52 crew footage and interviews. 1:40—1:46 a 6-second clip downloaded from a stitched TikTok post.

Look closely: Which two parts of the cut did the crew not make?

What it shows

➤ Two borrowed pieces: 20 seconds of a pitched-up song and a stitched TikTok clip.

What it leaves out

➤ The owners, any license terms and which part of the song the 20 seconds use.

Evidence B | Group-chat message

Mateo's message, Friday, 10:02 p.m.

We'll credit them in the caption. Post tonight?

Look closely: Which question does the caption answer? Which question does it skip?

What it shows

➤ Mateo treats a caption credit as enough to post the film tonight.

What it leaves out

➤ Any sign that the song's owner gave permission for this use.

Case 14 | Look at the evidence | Grades 11–12 educator edition

🕒 Pacing

Full chapter: 8 min.

✂ Short on time: 8 min.

💬 Say this

“Put your finger on each row of the rights log. Which column says “unknown”?” — Wait for “permission or license” in both rows.

👁 Watch for

Misconception: Students think the pitch change makes the song the crew's own. **Listen for:** “They changed it, so it's theirs now.” **Then:** Ask what the change added. The song is still recognizable, and nobody gave permission.

📋 Support

- Reduce the work to one element, the song, for students who need it.
- Read the timeline aloud and list each borrowed piece on the board.
- **Cognates:** attribution (atribución), license (licencia), permission (permiso), credit (crédito), music (música), original (original), factor (factor), purpose (propósito), market (mercado).

🔄 Stretch

- Ask why Stitch permission inside TikTok may not cover the same clip in a festival film.

🔥 Heat check

■□□ Low.

Look at the evidence, continued

Evidence C | Rights log

Rights log, started Saturday morning

Columns: element, who made it, where it came from, permission or license and date. Row 1: setup-montage music, the recording artist, a streaming download, permission unknown. Row 2: 6-second clip, a TikTok creator, downloaded from TikTok, permission unknown.

Look closely: Which column says “unknown” in both rows?

What it shows

➤ A record of each borrowed piece, its maker and where the crew got it.

What it leaves out

➤ Any license, and what the TikTok creator agreed to when posting.

What is still missing from the evidence?

➤ Whether the track has any license that covers this use, which part of the song the 20 seconds come from, where the film will be shown, and what the TikTok creator agreed to when the clip was posted.

Notes

Case 14 | Look at the evidence | Grades 11–12 educator edition

🕒 Pacing

Full chapter: 4 min.

✂ Short on time: 3 min. Students fill in only the “What it shows” box.

💬 Say this

“Put your finger on each row of the rights log. Which column says “unknown”? — Wait for “permission or license” in both rows.

👁 Watch for

Misconception: Students think the pitch change makes the song the crew’s own. **Listen for:** “They changed it, so it’s theirs now.” **Then:** Ask what the change added. The song is still recognizable, and nobody gave permission.

📄 Support

- Reduce the work to one element, the song, for students who need it.
- Read the timeline aloud and list each borrowed piece on the board.
- **Cognates:** attribution (atribución), license (licencia), permission (permiso), credit (crédito), music (música), original (original), factor (factor), purpose (propósito), market (mercado).

➡ Stretch

- Ask why Stitch permission inside TikTok may not cover the same clip in a festival film.

🔥 Heat check

■□□ Low.

Key idea: fair use

On your own Read the key idea and the code of ethics, then answer the question in the box. About 10 minutes.

Credit and permission answer different questions. **Attribution** is naming the person who made a work, such as a song, a photo or a video. It answers the question “Who made this?” A **license** is permission from a rights holder to use a work under specific terms. It answers another question: “Did the owner say yes to this use?” Mateo’s caption would give attribution. It would not give the crew a license.

Without a license, the crew could ask whether the use is fair use. **Fair use** is a part of U.S. copyright law that allows some uses without permission, judged case by case with four factors. The U.S. Copyright Office names the four factors. They are the purpose of the use, the nature of the original work, the amount used and the effect on the original’s market. No number of seconds is automatically safe. Even a short part can count against fair use if it is the most recognizable part of the song.

Platform tools come with their own limits. Stitch lets people remix another person’s video inside TikTok. That permission does not automatically cover a downloaded clip in a film shown somewhere else. Using music the crew records, or a track with a clear license, can avoid the fair-use question. Caio’s two backup plans follow this idea: a library track with clear terms, or a drum loop that Dec records.

Professional standards

Real source | AIGA, the professional association for design

AIGA Standards of Professional Practice: The designer’s responsibility to other designers

“A professional designer shall not accept instructions from a client that involve infringement of another person’s property rights without permission”

In plain words: Designers who belong to AIGA agree not to use other people’s creative work without permission, even when a client asks.

Question: The rights log says “permission unknown” for the track and the TikTok clip. What does Caio need for each row?

Pacing

Full chapter: 10 min.

 Short on time: 8 min. Skip the In the news section.

Say this

“Credit answers one question and a license answers another. Which question does each answer?” — Accept “who made it” and “did the owner say yes.”

“The AIGA code says not to use someone’s work without permission. What would Caio need?” — Wait for “a license for each row.”

Watch for

Misconception: Students treat the AIGA code as a law.

Listen for: “The crew could get arrested for breaking it.”

Then: Say: “A code of ethics is a standard a profession sets for its members. AIGA’s code binds its members, not the crew.”

Support

- Read the code quotation aloud. Point out the label: it is a real source, quoted word for word.

Stretch

- Compare the RTDNA line, which calls using work without attribution or permission plagiarism. Why does it name both?

Heat check

 Low.

Professional standards, continued**Your answer**

Caio needs ____, because ____.

Caio needs a license or permission from each owner, with its terms and date, because a credit line fills neither column.

In the news

Real source | CrashCourse (YouTube) | May 7, 2015

Copyright, Exceptions, and Fair Use: Crash Course Intellectual Property #3

Explains why giving credit is not the same as permission, and how fair use is weighed.

Real source | NPR | May 18, 2023

Supreme Court sides against Andy Warhol Foundation in copyright infringement case

Even a famous artist's new version wasn't fair use when it served the same purpose as the original.

Notes

This page continues page 277. The notes for both pages are on the sheet for page 277.

Sort the evidence

On your own Match each piece of evidence to the claim it supports, challenges or narrows. About 8 minutes.

Test the crew's two assumptions against the sources. Which evidence knocks each one down, and what single check could still make the plan work?

Evidence	Claim 1 Crediting the artist makes the use okay.	Claim 2 Twenty seconds is short enough to be fair use.
1 Credit names the creator but grants no permission	🔗 Challenges	🔗 Neither
2 Copyright Office: no formula makes a set amount safe; the heart of a work matters	🔗 Neither	🔗 Challenges
3 The sample is background mood, not commentary on the song	🔗 Neither	🔗 Challenges
4 Stitch permission applies inside TikTok, not to a downloaded clip in another film	🔗 Narrows	🔗 Neither

Still open

- Does any license cover this use? Check before posting.

Whose perspective is missing?

Whose view is missing from these documents? What would you ask them?

The view that is missing is _____. I would ask _____.

🔗 The owners of the song and the clip. I would ask each one what their terms allow outside TikTok, such as a festival screening.

🕒 Pacing

Full chapter: 8 min.

✂ Short on time: skip this page.

💬 Say this

“Which piece of evidence challenges the idea that credit is enough?” — Model the first row together.

👁 Watch for

Misconception: Students mark Stitch permission as proof the clip is fine to use. **Listen for:** “TikTok lets you stitch, so it’s allowed.” **Then:** Stitch works inside TikTok. It narrows the claim; it does not settle the festival use.

📄 Support

- Let students write S, C or N in each box before they write sentences.

🔥 Heat check

■□□ Low.

Practice: choose a response

On your own Choose the plan you would pick and explain why, then fix the two marked lines. About 6 minutes.

Caio's cut uses about 20 seconds of a released song as background mood for the crew's festival film. Mateo texts, "We'll credit them in the caption. Post tonight?" Which plan should the crew choose?

☐ A Credit the artist in the caption and post tonight.

☒ B Pause the upload. Check the track's license, and swap in licensed or original music if the license does not cover this use.

☐ C Cut the song to ten seconds, since short clips are fair use.

Why I chose it

➡ B. A answers only who made the song, and C rests on a myth about seconds. B checks the license and plans licensed or original music if it fails.

Improve a draft

A student's first draft

We're good to post! ① We only used like 20 seconds of the song and we're putting the artist's name in the caption so they get credit. Plus it's not like we're making money off it, it's just for our page. ② Everyone uses songs like this on TikTok anyway so it's fine. We even changed the pitch a little so it's basically our own version now, and the whole cut is under two minutes. If they don't like it they can just ask us to take it down.

⌚ Pacing

Full chapter: 6 min.

✂ Short on time: skip this page.

💬 Say this

"It is 10:02 p.m. and Mateo wants to post. Which plan do you choose?" — Hold a vote before any discussion.

👁 Watch for

Misconception: Students choose the ten-second plan. **Listen for:** "Ten seconds is always fair use." **Then:** Ask where the Copyright Office names a safe number of seconds. It names none.

📖 Support

- Read the three options aloud before students choose.

🔥 Heat check

■□□ Low.

Improve a draft, continued

Rewrite each marked phrase so it says only what the evidence supports.

Rewrite phrase 1

✎ We used 20 seconds for mood, with no commentary. Length alone does not decide fair use.

Rewrite phrase 2

✎ In-app licenses cover in-app sounds, not a downloaded track at a festival.

Notes

This page continues page 280.

✎ Answer key

A revised version: Plan: we’re pausing the upload tonight. We used about 20 seconds of the song as background mood, which isn’t commentary on the song, and crediting the artist doesn’t give us permission. We’ll try two options. First, Caio will check whether the track has a license that covers this use. If not, we’ll swap in a track from a library with a clear license, or Dec will record a short drum loop we own. We’ll keep a rights log with the source, license and date for every clip and sound, then post by Sunday.

Other notes on the draft:

- “putting the artist’s name in the caption” Good practice, but credit isn’t permission.
- “it’s not like we’re making money off it” Noncommercial use is one consideration, not an automatic yes.
- “they can just ask us to take it down” That puts the risk on the artist. Check first.

Grades 11–12

Your task

On your own Read the steps and fill in the planner boxes before you start your draft. About 15 minutes.

Write a brief on how the Supreme Court’s 2023 Warhol v. Goldsmith decision shapes the “purpose” factor, applied to the crew’s film.

Use: A neutral summary of Andy Warhol Foundation v. Goldsmith and the Copyright Office page.

You’ll make: Brief, 450–550 words

Time: 60 minutes

- 1 Read the Copyright Office summary of Warhol v. Goldsmith. Underline the holding.
- 2 Write the holding in one sentence of your own in the planner.
- 3 Name the purpose of the crew’s use of the song.
- 4 Compare that purpose with the purpose of the original song.
- 5 Write a first draft of your brief’s key paragraphs on the Your draft page.
- 6 Finish a brief of 450 to 550 words on lined paper or in the online workspace.

Prefer typing? Scan to open the online workspace.

The holding, in my words

The Court held that ____.

➤ The Court held that factor one did not favor fair use for the licensing use, because it shared the original’s purpose and was commercial.

The purpose of the crew’s use

➤ Background mood under the setup montage.

The purpose of the original song

➤ A released song the artist might also license.

Case 14 | Your task | Grades 11–12 educator edition

⌚ Pacing

Full chapter: 15 min.

✂ Short on time: 12 min. Read the Warhol summary aloud together before students fill in the planner.

💬 Say this

“Read the holding twice. What did the Court decide, and about which use?” — Students often overstate the ruling. Ask them to name the use.

👁 Watch for

Misconception: Students say Warhol made remixing illegal. **Listen for:** “After Warhol, remixing is illegal.” **Then:** Reread the summary. The Court decided one licensing use under factor one.

📖 Support

- Case summary
- Factor-one explainer

➦ Stretch

- Explain why the specific use matters, not just whether the new work looks different.

📋 Standards

Common Core: RI.11–12.1; W.11–12.1; W.11–12.5; SL.11–12.1.c; SL.11–12.1.d.

C3 Framework: D2.Civ.3.9–12; D2.Civ.12.9–12; D2.Civ.10.9–12.

The Case plan sheet gives each code in plain words.

Same purpose or a new one?

➤ The crew's use sets a mood the way the song already does, so factor one probably weighs against fair use.

Notes

This image shows a single page of white paper with horizontal blue lines, resembling notebook paper. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

07 Answer key

- Represents the holding accurately
- Applies it to the case carefully
- No legal advice
- Clear recommendation

Your draft

On your own Write your first draft in the boxes, using your planner from the page before. About 25 minutes.

First draft: what the Court decided

🔗 In 2023, the Supreme Court decided *Andy Warhol Foundation v. Goldsmith*. The Court looked at one specific licensing use. It held that the first factor did not favor fair use for that use. The use shared substantially the same purpose as the original photograph, and it was commercial. A new look or meaning did not settle the question.

First draft: what it means for the crew's film

🔗 The crew's film uses about 20 seconds of a released song as background mood under the setup montage. That is a job the song can already do for anyone who licenses it. Caio pitched the song up slightly. In *Warhol*, a new look alone did not settle the question, so a slightly new sound may not either. The crew adds no commentary, so the purpose factor probably weighs against fair use. The other three factors still matter.

First draft: our recommendation

🔗 We recommend pausing the upload. Caio should check whether the track's license covers this use. If not, the crew can use a library track with clear terms or record its own.

⌚ Pacing

Full chapter: 25 min.

✂ Short on time: 20 min. Students draft the holding and application paragraphs in class and finish at home.

💬 Say this

“Your reader is the crew. How does a 2023 ruling about a photograph apply to their song?” — Ask for one sentence that names the crew's purpose.

👁 Watch for

Misconception: The brief gives legal advice. **Listen for:** “This is definitely infringement.” **Then:** Point to the success list: no legal advice. Replace verdicts with a recommended step.

🔗 Answer key

What to notice in the sample:

1. States the scope of the holding accurately.
2. Applies the holding to Caio's pitch change.
3. Draws a careful conclusion and marks it “probably.”
4. Keeps factor one in its place in the four-factor test.

Check your work

On your own Answer the Check your work questions, mark your level in each rubric row and write one change you made. About 6 minutes.

Does your brief state the Warhol holding accurately?	☒ Yes	☐ No
Does it apply the purpose factor to the crew's specific use?	☒ Yes	☐ No
Does it keep the other three factors in view?	☒ Yes	☐ No
Does it recommend a step without giving legal advice?	☒ Yes	☐ No

How your work is scored

Mark one box in each row.

Skill	Beginning	Developing	Proficient	Advanced
Evidence	☐ Relies on myths.	☐ Cites credit as permission.	☐ Uses the four factors or license terms.	☐ Uses factors, license terms and platform differences.
Reasoning	☐ Assumes any use is fine.	☐ Applies one factor.	☐ Separates credit, permission and fair use.	☐ Weighs factors honestly and chooses a lower-risk path.
Audience & purpose	☐ Ignores the artist.	☐ Considers only the crew.	☐ Considers the artist and the audience.	☐ Balances creative goals with respect for the original creator.
Revision	☐ No change.	☐ Adds a credit.	☐ Replaces myths with a rights plan.	☐ Explains each step and a realistic alternative.

Pacing

Full chapter: 6 min.

 Short on time: skip this page. Collect drafts and score them with the rubric yourself.

Say this

“Mark your level in each row. Then make one change and say why.” — Circulate and ask for one myth removed or one source added.

Watch for

Misconception: Students add a credit line and call it a revision. **Listen for:** “I added the artist’s name.” **Then:** Point to the Revision row. Adding a credit is level 2; a rights plan is level 3.

Heat check

 Low.

Answer key

How to assess: The brief is scored for an accurate account of the Warhol holding, careful application to the crew’s use, no legal advice and a clear recommendation.

Proficient looks like:

- **Evidence:** Uses the four factors or license terms.
- **Reasoning:** Separates credit, permission and fair use.
- **Audience & purpose:** Considers the artist and the audience.
- **Revision:** Replaces myths with a rights plan.

Notes

[illegible]

This page continues page 285. The notes for both pages are on the sheet for page 285.

Questions to discuss

On your own Write a short answer to each question, then complete each sentence frame. About 10 minutes.

- 1 Caio pitched the song up slightly. Does changing a song make it a new work? Why or why not?

➤ Not by itself. The pitch-shifted song stays recognizable and does the same job, setting a mood. The crew adds no commentary on the song.

- 2 Mateo says the TikTok clip goes in the rights log as “unknown.” What would the crew need to find out to fill in that row?

➤ The creator, the terms the clip was posted under and whether those terms reach a festival screening. If not, they need written permission or a new clip.

- 3 Suppose a student used the same song in a video for class. What changes if that video becomes a public post?

➤ The audience and the market change. A public post can replace a license the artist might sell, and the platform’s terms start to apply.

My take

My claim: ____.

➤ The crew should hold the film until each borrowed piece has a license or is replaced.

The best evidence is ____, because ____.

➤ The rights log, because it records two borrowed pieces and no permission for either.

Case 14 | Questions to discuss | Grades 11–12 educator edition

🕒 Pacing

Full chapter: 10 min.

✂ Short on time: 5 min. Use question 1 as an exit ticket.

💬 Say this

“Answer with a detail from the evidence, not a rule you heard online.” — Post the question numbers and collect one answer per question.

🔗 Stretch

- Compare Caio’s two backup plans: a library track with clear terms or a drum loop Dec records. What does each need in the rights log?
- Going further: Apply the four fair-use factors to the six-second TikTok clip instead of the song. Which factor is hardest to judge, and why?
- Going further: Sketch two short storyboards of the setup montage: one with the sampled song and one with licensed or original music. Compare what each version makes viewers feel and what each one needs before it can be posted.
- Going further: Choose a sound or clip you have seen reused in several online videos. Trace it back to the earliest post you can find. Write a credit line for it, and note whether that post says anything about permission.
- Going further: Before you edit your next video or slideshow, list every outside clip, image, sound and quote. Record the source and the license or permission for each one. Ask your school librarian or media teacher about any use you are unsure of.
- Compare Creative Commons license types and what each allows
- Research how your school’s media policy handles copyrighted material

My take, continued

Someone who disagrees might say ____.

➔ A short, noncommercial use for mood could pass the four-factor test.

The limit of the evidence is ____.

☛ No document shows the license terms or which part of the song the 20 seconds use.

I would change my mind if ____.

🔑 The track's license turned out to cover festival screenings.

Notes

[illegible]

This page continues page 287.

Heat check

Question 1: Low.

Talk about this case at home

Case 14: Does giving credit let the crew use the song?

In this case, a group of friends wants to post a short film that uses 20 seconds of a released song. Your student compared giving credit with getting permission, then planned what the crew should do before posting.

Questions to talk about

- 1 What is the difference between giving credit and getting permission?
- 2 Why might a short part of a song still need permission?
- 3 Where could a student find music they have permission to use?

Nobody needs to share personal stories or private information to talk about this case.



See the case online.

Case 14 | Talk about this case at home | Grades 11–12 educator edition

🕒 Pacing

At home: this page takes no class time.

💬 Say this

“Share this page at home, or read it with an adult you trust.”
— Nobody needs to share a personal story to complete it.