

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Romanova v. Amilus Inc.

138 F.4th 104 (2d Cir. 2025) · No. 23-828 · Decided May 23, 2025

SUMMARY

This Second Circuit opinion addresses whether a district court properly dismissed a copyright infringement complaint sua sponte on fair use grounds when the defendant had defaulted. The appellate court reversed the dismissal, holding that the alleged facts did not establish a fair use defense under the Copyright Act. The case was remanded with instructions to enter a default judgment in favor of the plaintiff-appellant.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Jacobs; Leval; Sullivan
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	May 23, 2025
DOCKET	23-828
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the judgment of the United States District Court for the Southern District of New York dismissing the plaintiff's claim of willful copyright infringement.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	published
PARTIES	Jana Romanova v. Amilus Inc.

TOPICS

- copyright law
- copyright infringement
- copyright fair use
- summary judgment
- appellate procedure
- default judgment
- motions to dismiss
- standard of review
- civil procedure

PRACTICE AREAS

- intellectual property
- civil procedure

QUESTIONS PRESENTED

1. Whether the district court erred in finding a basis in the complaint for a fair use defense.
2. Whether the district court erred in sua sponte raising a substantive, non-jurisdictional affirmative defense on behalf of a non-appearing defendant.

HOLDINGS

1. The district court erred; the fair use defense was not supported by the complaint and the judgment is reversed.
2. The district court did not err; sua sponte consideration of an affirmative defense for a defaulting defendant is permissible.

KEY QUOTATIONS

“The district court dismissed Plaintiff’s complaint with prejudice on the ground that Defendant’s publication of Plaintiff’s photograph constituted fair use.” (at 76)

“We therefore remand with instructions to grant the Plaintiff’s motion for default judgment.” (at 80)

FACTUAL BACKGROUND

Jana Romanova, a professional photographer, licensed a photograph of a Russian woman with snakes to National Geographic. Amilus Inc. copied the photograph and posted it on its subscription website without permission. Amilus did not answer the complaint or appear in court. The plaintiff sent two cease-and-desist notices, which went unanswered. The district court ordered the plaintiff to show cause why the fair use defense should not apply, then dismissed the complaint on fair use grounds.

PROCEDURAL HISTORY

The district court dismissed the complaint with prejudice after sua sponte ordering the plaintiff to show cause why the fair use defense did not apply. The plaintiff sought default judgment; the district court instead dismissed on fair use grounds. The plaintiff appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Enter a default judgment in favor of Plaintiff.

CASES CITED

- Chambers v. Time Warner, Inc., 282 F.3d 147 (2d Cir. 2002)
- Sohm v. Scholastic, Inc., 959 F.3d 39 (2d Cir. 2020)
- Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994)

- Warner v. Goldsmith, 598 U.S. 508 (2023)
- Arizona v. California, 530 U.S. 392 (2000)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/second-circuit/2025/romanova-v-amilus-inc-hsft4pab>