

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BROWNMARK FILMS, LLC,

Plaintiff,

v.

Case No. 2:10-cv-01013-JPS

COMEDY PARTNERS, MTV
NETWORKS, PARAMOUNT
PICTURES CORPORATION, SOUTH
PARK DIGITAL STUDIOS LLC, and
VIACOM INTERNATIONAL, INC.,

Defendants.

[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO RECOVER
ATTORNEYS' FEES AND COSTS

After considering the Motion to Recover Attorneys' Fees And Costs submitted by defendants Comedy Partners, MTV Networks, Paramount Home Entertainment Inc., South Park Digital Studios LLC, and Viacom International Inc. (collectively "the South Park Defendants"), and good cause appearing therefor, the Court, pursuant to 17 U.S.C. § 505 and Rule 54(d) of the Federal Rules of Civil Procedure, HEREBY ORDERS:

1. This Court exercises its discretion to award the South Park Defendants, the prevailing parties in this action, reasonable attorneys' fees and costs. The South Park Defendants obtained a complete victory when this Court granted their motion to dismiss on fair-use grounds, making the South Park Defendants presumptively entitled to a fee award under Section 505. The fair-use defense set forth by the South Park Defendants was strong, as the parodic purpose and character of the use of parts of the "What What (In The Butt)" ("WWITB") video was

obvious. The other important factors also weigh in favor of fair use, as the South Park episode used a relatively insubstantial portion of the WWITB video in the parody, and there is little risk of the South Park parody usurping market demand for the original WWITB video. Because the success of the South Park Defendants and the strength of their fair-use defense easily support a reasonable award of attorneys' fees and costs (*see Assessment Technologies of WI, LLC v. Wire Data, Inc.*, 361 F.3d 434, 436 (7th Cir. 2004)), the South Park Defendants are entitled to recover their reasonable attorneys' fees and costs in defending against this action.

2. The South Park Defendants have established that their attorneys' fees and costs requests are reasonable. Accordingly, The South Park Defendants are entitled to recover from Plaintiff Brownmark Films LLC \$46,775.23 in attorneys' fees and costs, plus the attorneys' fees and costs of \$_____ that the South Park Defendants incurred in preparing their fee motion and fee reply (that the South Park Defendants will establish they incurred in their fee reply brief).

IT IS SO ORDERED.

Dated: _____

Judge Joseph Peter Stadtmueller
United States District Court

Respectfully submitted,

DATED: July 20, 2011

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JEFF GLASSER (*of counsel*)
California State Bar No. 252596

By: /s/ Alonzo Wickers IV
Alonzo Wickers IV

Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2011, I caused the foregoing document to be electronically filed with the Clerk of the Court using the ECF system which will make this document available to all counsel of record for viewing and downloading from the ECF system.

Dated: July 20, 2011.

/s/ Alonzo Wickers IV
Alonzo Wickers IV