Looser Forms of Parody

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In 1994, the U.S. Supreme Court issued its first opinion on whether parody may be copyright fair use. In *Campbell v. Acuff-Rose*, the Court defined "parody" for the purpose of copyright as a work that uses "some elements of a prior author's composition

to create a new one that, at least in part, comments on that author's work." The Court noted that if a secondary work lacks "critical bearing on the substance or style of the original composition," its claim to fair use diminishes, if not vanishes. However, in a footnote, the Court acknowledged the existence of "looser forms of parody" that "may still be sufficiently aimed at an original work to come within [the Court's] analysis of parody." In 2023, the Court revisited the concept of parody in *Andy Warhol Foundation for the Visual Arts v. Goldsmith*. In that decision, the Court's language appeared to define parody as a work that "targets an author or work for humor or ridicule." It did not address whether Warhol's Orange Prince could be considered a looser form of parody. In fact, since Campbell, no court has identified a secondary work as a looser form of parody, instead preferring to identify works as either parodies or satires—the latter enjoying a lesser chance of being found to be a fair use. This project aims to identify when secondary works might be considered parodies or "looser forms of parody," and how that might affect a copyright fair use decision.