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Feist Publications, Inc. v. Rural Telephone Service Co. 499 U.S. 340, 1991

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INTRODUCTION

The *Feist Publications, Inc. v. Rural Telephone Service Co.* (499 U.S. 340) is a landmark judgment that was rendered by the Supreme Court of the United States in 1991, which helped to reshape the standards in the area of copyright laws. The dispute between the parties was whether copyright laws protect the labour involved in collecting information or the creativity in how it is presented. For years, courts operated under the “sweat of the brow” doctrine, which provided protection for the time and money spent in compiling data. When Feist Publications copied listings from Rural Telephone Service’s directory, a legal dispute arose that eventually came before the Supreme Court of the United States.

KEYWORDS

Copyright, Creativity, Originality, Infringement, Protection

FACTS OF THE CASE

Plaintiff (Rural Telephone Service Co.): It is a certified public utility and telephone cooperative that provides services to several communities in northwest Kansas. State regulation required Rural to publish an annual updated telephone directory as a part of its monopoly franchise.¹

Defendant (Feist Publications, Inc.): It is a publishing company specialising in area-wide telephone directories that cover a much larger geographical area than typical local directories.

The Conflict between the parties arose on three main grounds:

¹ Benjamin Sobel, *Feist Publications, Inc. v. Rural Telephone Service Co.* 499 U.S. 340 (1991), (last visited 20 March 2026) <https://opencasebook.org/casebooks/3008-property-in-the-age-of-artificial-intelligence/resources/3.2.2-feist-publications-inc-v-rural-telephone-service-co/#:~:text=In%20preparing%20its%20white%20pages,state%20law%2C%20not%20by%20Rural>

- Refusal to License: Feist sought to license white pages listings from 11 local telephone companies in northwest Kansas to create its area-wide directory. Although ten of them consented, Rural declined to grant permission.²
- The Copying: Since Rural declined the license, Feist used Rural's directory without consent. The employees of Feist verified and updated data by adding street addresses. There were listings in Feist's directory identical to Rural's, which also included fictitious seeded entries that had been inserted to detect copying.
- Lawsuit: Rural sued Feist for copyright infringement, arguing that listings were protectable because of the "sweat of the brow" that was involved in collecting them.

ISSUES

1. Whether the names, addresses and phone numbers from a directory can be copyrighted or not?
2. Can such information be considered as an original work of authorship?
3. Should labour and expense be protected with a copyright, and the doctrine of sweat of the brow be applicable?

ARGUMENTS OF THE PARTIES

PETITIONER:

Feist Publications Inc. contended that work has to be original in order to get copyrighted. It means a work should be created independently and have some degree of creativity. The names, addresses and phone numbers are facts that exist independently of any author and belong to the public domain. They argued that recollecting the raw data door-to-door is economically impractical and contrary to the purpose of copyright, which is to encourage the dissemination of information.³

² Feist Publications Inc. v. Rural Telephone Service, Inc., Berkman Klein Center 499 U.S. 340 (1991), (last visited 20 March 2026) <https://cyber.harvard.edu/IPCoop/91feisl.html>

³ Feist Publications, Inc. v. Rural Telephone Service Company, Inc., Bitlaw 499 U.S. 340 (1991), (accessed on March 19, 2026) <https://www.bitlaw.com/source/cases/copyright/feist.html>

RESPONDENT:

Rural argued that its white pages were copyrightable under the sweat of the brow doctrine, which rewards the labour and expense of compiling data. The collection of names, towns and phone numbers requires significant effort, time and money and taking it into consideration, Rural contended that Feist should not be allowed to reap what it had not sown and was required to conduct its own door-to-door or telephone surveys to discover the same information independently. They relied on lower court precedents, which suggested that directories were copyrightable per se due to their nature as compilations.

DECISION OF THE COURT

- **U.S. District Court (District of Kansas):**

The District Court gave judgment in favour of Rural Telephone Service Co. It held that telephone directories were copyrightable by citing lower court decisions, which supported the sweat of the brow doctrine. The court believed that Rural's extensive labour in collecting and verifying data entitled them to legal protection against copying⁴.

- **U.S. Court of Appeals (Tenth Circuit):**

The Tenth Circuit Court of Appeals ruled in favour of Rural and upheld the decision given by the District Court.

- **U.S. Supreme Court:**

The majority Supreme Court decision delivered by Justice Sandra Day O'Connor reversed the Tenth Circuit's judgment and held that Feist did not infringe on any copyright by taking those listings for its own directory. The Court found that Rural's white pages were entirely typical and lacked even the slightest trace of creativity, as listings were arranged in simple alphabetical order.

⁴ Arunima Sharma, Feist Publications, Inc., v. Rural Telephone Service Co., Inc., IP Matters, (accessed on March 19, 2026)

<https://www.theipmatters.com/post/feist-publications-inc-v-rural-telephone-service-co-inc>

APPLICATION OF LAWS

1. U.S. CONSTITUTION

The Copyright Clause, which is Article 1, Section 8, Clause 8 of the U.S. Constitution⁵, was applied. Under this, creators are given special rights over their creative work and innovation and creativity are promoted.⁶

2. COPYRIGHT ACT, 1976

The key provisions that were applied to determine that compilations are protected and not the facts within them are:

- Section 101: It defines compilation as an original work that is formed by the selection, coordination or arrangement of data.⁷
- Section 102: It limits the protection to original works of authorship and excludes facts and data from protection.⁸
- Section 103: It limits the copyright of compilation to the contribution of original material and not the underlying facts.⁹

REASONING OF THE COURT

- Facts not copyrightable: The Court held that names, addresses and phone numbers are unoriginal facts that exist independent of the compiler.
- The “Modicum of Creativity” Standard: It was held that for a work to be original, it must be independently created and possess a minimal degree of creativity¹⁰.

⁵ U.S. CONST. art. I, § 8, cl. 8.

⁶ FEIST PUBLICATIONS, INC. v. RURAL TELEPHONE SERVICE CO., INC 499 U.S. 340 (1991)., The Library of Congress, (accessed on March 19, 2026) <https://tile.loc.gov/storage-services/service/ll/usrep/usrep499/usrep499340/usrep499340.pdf>

⁷ 17 U.S.C. § 101 (2024).

⁸ 17 U.S.C. § 102 (2024).

⁹ 17 U.S.C. § 103 (2024).

¹⁰ Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340 (1991), Volume 499, Justia, (accessed March 19, 2026) <https://supreme.justia.com/cases/federal/us/499/340/>

- Abolition of Sweat of the Brow: The Court ruled that hard work and investment in collecting data are not enough to grant copyright protection. The purpose of copyright is to reward originality, not the effort in gathering facts.
- Thin Protection: In factual compilations, copyright only protects the original selection, coordination, or arrangement of data and not the facts themselves¹¹. The raw data can be freely used by others for creating competing works.

ANALYSIS

The judgment is sound from both a constitutional and a statutory perspective as it effectively addressed the conflict between factual data and its ownership. The Court rightly emphasised that authorship necessitates at least a minimal degree of creativity. Just discovering a fact, such as phone numbers and names does not make someone its creator and providing copyright protection to simple alphabetical listings would allow membership over facts themselves.

The interpretation of Section 101 of the Copyright Act, 1976, was accurate, as this section protects compilations only when the selection or arrangement is original. The decision created room for the internet and search engines because if the factual data were copyrighted, it would not have been possible to index the internet without getting licenses for all data.

CONCLUSION

The Court's primary objective in the case was to clarify the requirement for a work to be considered as original under the Copyright Act, 1976 and the U.S. Constitution. It shifted the copyright law by establishing originality and discarding labour as the constitutional requirement for protection. For a work to be copyrightable, it must be independently created and possess at least a modicum of creativity. It struck down the "sweat of the brow" doctrine by arguing that rewarding just the collection of data would improperly grant a monopoly over facts, which are

¹¹ Jane C. Ginsburg, No "Sweat"? Copyright and Other Protection of Works of Information after *Feist v. Rural Telephone*, 92 COLUM. L. REV 338 (1992) (accessed March 19, 2026) https://scholarship.law.columbia.edu/faculty_scholarship/60

supposed to remain in the public domain. This ensures the free flow of information and prevents thin copyright from blocking innovation.