

Frank MORRISSEY, Plaintiff, Appellant,

v.

The PROCTER & GAMBLE COMPANY  
et al., Defendants, Appellees.

No. 6882.

United States Court of Appeals  
First Circuit.  
June 28, 1967.

\* \* \*

The second aspect of the case raises a more difficult question. Before discussing it we recite plaintiff's Rule 1, and defendant's Rule 1, the italicizing in the latter being ours to note the defendant's variations or changes.

"1. Entrants should print name, address and social security number on a boxtop, or a plain paper. Entries must be accompanied by \* \* \* boxtop or by plain paper on which the name \* \* \* is copied from any source. Official rules are explained on \* \* \* packages or leaflets obtained from dealer. If you do not have a social security number you may use the name and number of any member of your immediate family living with you. Only the person named on the entry will be deemed an entrant and may qualify for prize.

"Use the correct social security number belonging to the person named on entry \* \* \* wrong number will be disqualified."

(Plaintiff's Rule)

"1. Entrants should print name, address and Social Security number on a Tide boxtop, or *on* [a] plain paper. Entries must be accompanied by Tide boxtop (*any size*) or by plain paper on which the name 'Tide' is copied from any source. Official rules are *available* on Tide Sweepstakes packages, or *on* leaflets at Tide dealers, or *you can send a stamped, self-addressed envelope to: Tide 'Shopping Fling' Sweepstakes, P.O. Box 4459, Chicago 77, Illinois.*

"If you do not have a Social Security number, you may use the name and number of any member of your immediate family living with you. Only the person named on the entry will be deemed an entrant and may qualify for a prize.

"Use the correct Social Security number, belonging to the person

ALDRICH, Chief Judge.

This is an appeal from a summary judgment for the defendant. The plaintiff, Morrissey, is the copyright owner of a set of rules for a sales promotional contest of the "sweepstakes" type involving the social security numbers of the participants. Plaintiff alleges that the defendant, Procter & Gamble Company, infringed, by copying, almost precisely, Rule 1. In its motion for summary judgment, based upon affidavits and depositions, defendant denies that plaintiff's Rule 1 is copyrightable material, and denies access. The district court held for the defendant on both grounds.

