**Copyrighted Item:**

Mario Sprite

**A pixelated video game character

Description automatically generatedA pixelated video game character

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**Overview:**

This classic 2-bit sprite is Mario, and he makes a surprise appearance in Hotdog Jone’s: The Video Game published by WeinerWare Entertainment. This sprite appears in the classic game Super Mario Bros. from 1985 published by Nintendo. This sprite is the main character used in Super Mario and eventually over the years was upgraded graphically.

**Claim:**

With this sprite and animation being included in Hotdog Jones: The Video Game, we are directly infringing upon the Copyright Act of 1976. This act outlines the rights and protections granted to creators of original works, including literary, musical, dramatic and artistic works, as well as categories such as motion pictures and sound recordings.

**Rebuttal:**

WeinerWare Entertainment is prepared to rebuttal the above claim that entails the Fair Use Doctrine. Fair Use allows for the limited use of copyrighted material without getting permission from or paying royalties to the copyright holder. To argue for fair use, we have concluded that it meets the following criteria:

1. A pixelated video game character

   Description automatically generated**Transformative Nature:** since our sprite has been significantly altered from the original such as, change of colors, no hat, and no mustache, we can consider this piece of work to fall under transformative. We are creating something new here, rather than replicating the original work.
2. **Limited Use:** Here we are only using a very small portion of a much larger piece of work. This is just one small piece in our game that acts as a sort of easter egg. In our case we aren’t trying to undermine the market for the original game or character.
3. A pixelated cartoon character

   Description automatically generated**Parody or Commentary:** Our Mario sprite acts as a satirical and commentary piece to our game. Since our sprite is just an easter egg, and our game has a lot of platformer elements as well as same art style for old 2-bit Mario. He could just be a character in the same world as Hotdog Jones.
4. **Unlikelihood of Confusion:** Our Mario sprite also isn’t going to cause any confusion among our consumers in mistaking our game to be affiliated or a source with any Mario title. This is our own piece of work.
5. **Educational Purposes:** Our project and work are also beneficial for educational purposes. Our work intends to show off different development techniques and principles in game design. Here Mario has been added as an easter egg and an illustration highlighting some game development techniques and methods.