

Copyright: Fair Use Supplement

Purpose

Fair use presumes the user will act to secure formal permission when necessary. If the copy is used for teaching at a non-profit institution, distributed without charge and made by a teacher or students acting individually, then the copy is more likely to be considered as fair use.

Favoring Fair Use	Opposing Fair Use
Teaching (including multiple copies for classroom use)	Commercial Activity
Research	Profiting from the use
Scholarship	Entertainment
Nonprofit Educational Institution	Bad-faith behavior
Criticism	Denying Credit to original author
Comment	
News Reporting	
Transformative or Productive Use (changes the work for a new utility).	
Restricted Access	
Parody	

Nature

An article from a newspaper would be viewed differently than a workbook made for instruction. Multimedia material has different standards. For example, a digitized picture from a weekly magazine, a video clip from a popular movie and an audio selection from a Platinum CD will be treated differently.

Favoring Fair Use	Opposing Fair Use
Published Work	Unpublished work
Factually based	Highly creative work (art, music, films...)
Important to favored educational objectives	Fiction

Amount

Copying of extracts, generally speaking, when compared to the whole is more likely to be considered fair use.

Favoring Fair Use	Opposing Fair Use
Small Quantity	Large Portion
Portion is not central or significant to the entire work	Portion used is central or "heart of the work"
Amount is appropriate for favored educational use	

Effect

In general, a work that supplants the normal market is more likely to be seen as an infringement but a work does not have to have an effect on the market to be an infringement.

Favoring Fair Use	Opposing Fair Use
User owns lawfully acquired or purchased copy of original work	Could replace the sale of Copyrighted work
One or few copies made	Significantly impairs market or potential market for Copyrighted work or derivative
No significant effect on the market or potential market for Copyrighted work	Reasonably available licensing
No similar product marketed by the Copyright holder	Affordable permission available
Lack of licensing mechanism	Numerous copies made
	Copy was made accessible via the web or in a public forum
	Repeated or long term use