

Fair Use Checklist

Purpose

Favoring Fair Use

- Directly related to classroom use
- Research
- Scholarship
- Nonprofit Educational Institution
- Criticism
- Comment
- News reporting
- Transformative or Productive use
(changes the work for new utility)
- Restricted access (to students or other
appropriate group)
- Parody

Opposing Fair Use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author

Nature

Favoring Fair Use

- Published work
- Factual or nonfiction based
- Important to favored educational
objectives

Opposing Fair Use

- Unpublished work
- Highly creative work (art, music, novels,
films, plays)
- Fiction

Amount

Favoring Fair Use

- Small quantity (no more than 10% of
work)
- Portion used is not central or significant to
entire work
- Amount is appropriate for favored
educational purpose

Opposing Fair Use

- Large portion or whole work used
- Portion used is central to work or "heart
of the work"

Effect

Favoring Fair Use

- User owns lawfully acquired or purchased copy of original work
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- No similar product marketed by the copyright holder

Opposing Fair Use

- Could replace sale of copyrighted work
- Impairs market or potential market for copyrighted work or derivative
- Available licensing mechanism for use of the copyrighted work
- Permission available for using work
- Numerous copies made
- You made it accessible on Web or in other public forum
- Repeated or long term use

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