

FAIR USE 101

American Library Association Annual Conference
Monday, June 25, 2008 1:30-3:30pm

FAIR USE may allow you to copy works that are currently copyrighted!

The **four factors determining fair use** and *indicators that weigh each factor in favor of fair use*:

The **purpose and character** of the use: *transformative, non-profit, educational*

The **nature** of the copyrighted work: *published, factual*

The **portion** of the work used: *not essential, relatively small*

The **effect** of the use upon the potential market: *won't prevent the owner from making \$\$*

Here's what the law (Title 17 of the *United States Code*) says:

“§ 107: Limitations on exclusive rights: Fair use

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”

<http://www.copyright.gov/title17/92chap1.html#107>

Some great resources:

Copyright and Fair Use

<http://fairuse.stanford.edu/>

Russell, Carrie. *Complete Copyright: An Everyday Guide for Librarians*. ALA Editions, 2004. 0-8389-3543-5.

Crews, Kenneth. *Copyright Law for Librarians and Educators*. ALA Editions, 2005. 0-8389-0906-X.

ALA Copyright Advisory Network
<http://www.librarycopyright.net/>

Fair Use 101 is presented by members of the OITP Copyright Advisory Committee

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