
Fair Use

Copyright

Copyright, which means the right to copy, is a legal issue and is defined by copyright law. Copyright law governs the use of an individual's or a company's intellectual property (music, written documents, pictures, etc.). Only the person or company holding the copyright has the right to copy or use the intellectual property with certain exceptions allowed as "Fair Use" of copyrighted material.

In 1961, the *Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law* gave the following examples of what it regarded as fair usage:

1. Quotation of excerpts in a review or criticism for purposes of illustration or comment.
2. Quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations.
3. Use in a parody of some of the content of the work parodied.
4. Summarization of an address or article, with brief quotations, in a news report.
5. Reproduction by a library of a portion of a work to replace part of a damaged copy.
6. Reproduction by a teacher or student of a small part of a work to illustrate a lesson.
7. Reproduction of a work in legislative or judicial proceedings or reports.
8. Incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported.

Even though fair usage has been addressed through copyright laws, the person holding the copyright can still dispute your usage and the dispute may need to be resolved in court. *It is always best, especially if you are practicing outside of the university, to ask for written permission to use a copyrighted or trademarked property. You gain permission by contacting the holder of the copyright.*

To determine fair usage (title 17, U.S Code), courts consider four factors:

1. Status of User: Is the purpose and character of the use related to profit or is it related to a nonprofit organization? *Courts are more lenient with non-profit use.*
2. Public Protection: Does the nature and purpose provide protection to the public? *If the nature and purpose is to provide information that is essential to the public, as in medical information, the courts are more lenient.*
3. Amount and Impact: The amount is relative to the size of the document. The larger the works, the more words you could expect to use. *Have you used a large amount of the work and how does your usage impact the copyright holder?*
4. Monetary Gain: The effect of the use upon the potential market for the copyrighted work. *Does your usage violate the profits of the holder?*

Approach to copyright concerns:

1. Follow the fair use laws.
2. Get written permission.
3. Cite your sources correctly.
4. Footnote the trademarked or registered trademarked item and associate it with the company.
5. Consult an attorney who specializes in copyright.

Trademark and Registered Trademark:

While copyright protects intellectual property, *trademark and registered trademark* protect the name or logo of a product or company. A *trademark* is a word, phrase, name, or symbol that is owned by a company. The trademark symbol TM follows the word, phrase, name, or symbol that is trademarked: **Google** TM.

A *registered trademark* is the symbol that recognizes that the name, phrase, logo, or symbol has been registered with the U.S. Patent and Trademark Office. When a company has registered its name, phrase, logo, or symbol, it is given much more legal protection inside and outside of the United States than if it is trademarked. **Kleenex** ® is registered, so the registered trademark symbol should always accompany its name.

In order to insure that you are following the fair usage laws regarding trademark protection, you should follow the techniques below:

1. Use boldface, italics, or a different typeface to distinguish the trademarked item.
2. Use the trademark or registered trademark symbol at least once in each document (the first time) and include a footnote that states the name, symbol, logo, or phrase that is a registered trademark of a particular company.
3. The trademarked item is always used as an adjective and not as a noun. Kleenex® tissue.
4. You never change the trademarked name or phrase to a plural or possessive because it reduces the trademarked item. Not Kleenex's® quality but Kleenex® tissue's quality.