

FAIR USE ANALYSIS WORKSHEET

PURPOSE

Favors Fair Use

- Instruction, course websites; access restricted to registered students
- Scholarly research, personal use, study
- Student use to complete assignment
- Transformative use, creates a new work with a new purpose
- Statutory uses, criticism, comment, new reporting

Weighs Against Fair Use

- Commercial activity
 - No attribution to original authors
 - Profiting from use
 - For publication
 - For public distribution
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NATURE

Favors Fair Use

- Published work
- Factual work
- Non-fiction

Weighs Against Fair Use

- Unpublished work
 - Creative, imaginative, artistic work
 - Consumable work
 - Once used is unusable by others
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AMOUNT

Favors Fair Use

- Small excerpt, extract, or clip
- Only portion needed for favored educational purpose

Weighs Against Fair Use

- Entire work
 - Portion used is "heart of the work"
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MARKET EFFECT

Favors Fair Use

- One or few copies made
- Use stimulates market for original work
- No impact on market for original work
- No licensing mechanism in place

Weighs Against Fair Use

- Impairs market for original work
- Repeated use, when market exists for work
- Licensing mechanism for use is available
- Multiple copies, not for educational purpose