

# FAIR USE & COPYRIGHT INFRINGEMENT

*What is copyright infringement?*

"As a general matter, copyright infringement occurs when a copyrighted work is reproduced, distributed, performed, publicly displayed, or made into a derivative work without permission of the copyright owner."  
- US Copyright Office (click to access)

## THE PURPOSE AND CHARACTER OF YOUR USE

- Has the material you have taken from the original work been transformed by adding new expression or meaning?
- Was value added to the original by creating new information, new aesthetics, new insights, and understandings?

## THE NATURE OF THE COPYRIGHTED WORK

There is a bit more wiggle room to copy from factual works (i.e. biographies) than from fictional works (i.e. novels or plays) because the purpose of copyright is to "promote the progress of the sciences and useful arts" (spread knowledge)  
- US Constitution Art. 1, Sec. 8

## THE FOUR FACTORS CONSIDERED IN FAIR USE CASES

*Some areas supported by fair use*

*News reporting*

*Teaching*

*Scholarship*

*Research*

*Parody*

*Caricature*

*Satire*

## THE AMOUNT AND SUBSTANTIALITY OF THE PORTION TAKEN

- The less you take, the more likely your theft will be excused as fair use
- Even if you take a little bit, if you copy a portion of the "core" of the work, you are asking for trouble (parody excluded)

## THE EFFECT OF THE USE UPON THE POTENTIAL MARKET

Does your use deprive the copyright owner of income or undermine a new or potential market for the copyrighted work?  
If so, a lawsuit is very likely (although parody is analyzed differently in this context)

**REMEMBER THAT COPYRIGHT DOES NOT PROTECT IDEAS, SYSTEMS, OR FACTUAL INFORMATION**

## WHAT TO DO IF YOUR WORK IS INFRINGED UPON:

- Make sure your work is registered with the US Copyright Office (especially if you anticipate a legal dispute)
- Contact the infringer and politely ask them to stop using your work (take down the image, etc.)
- Look into getting help from an organization like Volunteer Lawyers for the Arts if you need a "cease and desist" letter

## PLAY IT SAFE:

- Make sure to ask for permission to use someone else's copyrighted material (especially if you'll be posting it on your blog, using it in your artwork, etc.)
- If you can't get permission, or don't know how to find the copyright owner, don't use it
- The best thing you can do to protect your own copyrighted material is to register it with the US Copyright Office
- At the very least, make sure all of your work bears a visible copyright notice (ex. © 2018 Erika Schnatz)

*Sources and Additional Resources (click to access)*

*Volunteer Lawyers for the Arts website*

*Rich Stim - Measuring Fair Use: The Four Factors*

*US Copyright Office - Copyright Infringement FAQ Page*

*Graphic Artists Guild Handbook: Pricing & Ethical Guidelines, 14th Edition*

This visual is provided for informational purposes only. It does not constitute legal advice; proper advice from a legal professional should be sought when necessary.

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