

Fair use in the electronic age: Serving the public interest

Draft statement: Send your comments to ALA in Washington

The primary objective of copyright is not to reward the labor of authors, but '[t]o promote the Progress of Science and useful Arts.' To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work. . . . This result is neither unfair nor unfortunate. It is the means by which copyright advances the progress of science and art."—Justice Sandra Day O'Connor.¹

The genius of United States copyright law is that, in conformance with its constitutional foundation, it balances the intellectual property interests of authors, publishers, and copyright owners with society's need for the free exchange of ideas. Taken together, fair use and other public rights to utilize copyrighted works, as confirmed in the Copyright Act of 1976, constitute indispensable legal doctrines for promoting the dissemination of knowledge, while ensuring authors, publishers, and copyright owners appropriate protection of their creative works and economic investments.

The fair use provision of the Copyright Act allows reproduction and other uses of copyrighted works under certain conditions for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research. Additional provisions of the law allow uses specifically permitted by Congress to further educational and library activities. The preservation and continuation of these balanced rights in an electronic environment as well as in traditional formats are essential to the free flow of information

(Fair use cont. on page 46)

Copyright and fair use: Maintaining the balance

The legal framework for intellectual property is based on a provision in the U.S. Constitution that empowers Congress to grant limited rights to authors and creators in their intellectual works for the purpose of promoting science and the useful arts. The Copyright Act of 1976 was intended to be technologically neutral, and to strike the essential balance grounded in the Constitution between rewarding creators and promoting growth of new knowledge built upon the work of others. One of the roles of the federal government is to foster maximum creativity by maintaining this equilibrium.

The library community, which has long provided opportunities for the public to benefit from the lending and use of a wide variety of copyrighted and public domain materials, is especially concerned that this balance among legitimate interests be maintained in the digital environment as well as with traditional formats.

To that end, representatives of the American Association of Law Librarians, American Library Association, Association of Academic Health Sciences Library Directors, Association of Research Libraries, Medical Library Association, Special Libraries Association drafted the statement, "Fair Use in the Electronic Age: Serving the Public Interest." The document is still a draft in progress, and the organizations listed welcome comments. Send your comments to Carol Henderson at cch@alawash.org.—Carol C. Henderson, executive director, ALA Washington Office

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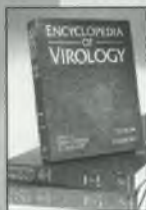
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