

Appendix 2.5.3.1 Checklist for Fair Use

Fair Use Checklist

Fontbonne University



Please complete and keep a copy of this form for each possible “fair use” of a copyrighted work with your course or project files.

Name: _____

Date: _____

Course: _____

Semester: _____

Keeping in mind the use you propose, check off each option as appropriate:

1. Purpose & character of the use:

Favoring Fair Use

- Non-profit
- Education
- Research
- Criticism
- Journalism
- Parody

Total Favoring _____

Against Fair Use

- For profit or commercial use
- Entertainment
- To save costs
- Other purpose

Total Against _____

2. Nature of the copyrighted work:

Favoring Fair Use

- Published
- Out of print

Total Favoring _____

Against Fair Use

- Unpublished
- Creative or fictional (i.e., music, play scripts, poetry, short stories, fictional novels, paintings, etc.)

Total Against _____

3. Amount and substantiality of the portion to be used:

Against Fair Use

Favoring Fair Use

- Just enough to serve a fair use purpose
- Small percentage of total

- Heart of the work
- More than is needed to serve purpose
- Large percentage of the total

Total Favoring _____

Total Against _____

4. Effect of use on the potential market:

Favoring Fair Use

- Copy is not a substitute for the original product
- Copy is not for sale or widely distributed
- Copy is not available through licensed databases
- Parody – has a different market
- Orphan work – cannot locate copyright holder

Against Fair Use

- Copy is substitute for original product
- Copy competes in sales of original product
- Copy is widely distributed
- Copy is available through licensed databases
- Copyright holder has established permissions market

Total Favoring _____

Total Against _____

Four Factor Totals:

1. Purpose of the use
2. Nature of the material copied
3. Amount of the material copied
4. Commercial effect

Totals

For Fair Use	Against Fair Use
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Tie-breaker: In ties, reexamine the second and fourth factors to break the tie.

**Based on *Fair Use Check List*

<https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairusechecklist.pdf>