

# EXHIBIT D

## Unknown

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**From:** Kenneth Crews [kcrews@columbia.edu]  
**Sent:** Tuesday, January 13, 2009 5:38 PM  
**To:** Schaetzel, Steve  
**Subject:** Re: Emailing: fair-use-at-the-university

Steve: This is great. I actually wrote this material, and I give permission on a steady basis for uses at other universities. In fact, that "checklist" has been a hot item for years. You will find dozens of versions of it on the web, and universities have adapted it to their needs.

Here is the item that predates my arrival at Columbia:  
<http://www.columbia.edu/cu/ogc/documents/Statement%20on%20the%20Use%20of%20Copyright%20Works%20By%20Faculty%20and%20Staff.pdf>  
Or look at the second item from the bottom of this list:  
[http://www.columbia.edu/cu/ogc/univ\\_policies.htm](http://www.columbia.edu/cu/ogc/univ_policies.htm)

Talk with you soon,  
Kenny Crews

Schaetzel, Steve wrote:

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> Fair Use at the University

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> Copyright Quick Guide

> \* Copyright Quick Guide </copyright-quick-guide>

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> \* Fair Use at the University </fair-use-at-the-university>

> \* Appropriate Uses </appropriate-uses>

> \* Fair Use Checklist </fair-use-checklist>

> \* Copyright Scenarios </copyright-scenarios>

> \* Court Case Summaries </court-case-summaries>

> \* Fair Use Resources </fair-use-resources>

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> Perm

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> \* Permissions </content/permissions>  
> \* Identifying the Copyright Owner </identifying-owner>  
> \* Collective Licensing Agencies </collective-licensing-agencies>  
> \* Model Permissions Letters </model-permissions-letters>  
> \* Complex Searches </complex-searches>  
> \* Orphan Works </orphan-works>  
>  
>  
> AU  
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> \* About Us </about>  
> \* Director </director>  
> \* Contact </contact>  
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> Resor  
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> \* Resources </resources>  
> \* Kenneth D. Crews's blog </blog/2>  
> \* Podcasts </podcasts>  
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> Print <#>  
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>  
> Fair Use at the University  
>  
> Fair use offers an extraordinarily important opportunity for  
> educators, researchers, and others to make reasonable and limited uses  
> of copyrighted materials. Clipping, cutting, pasting, uploading,  
> posting, and many other activities that are common at the university  
> could be copyright infringements, or they may be within fair use. When  
> do we need to think about fair use? Some example situations:  
>  
> \* Uploading materials to CourseWorks or other server.  
> \* Clipping and copying materials into innovative teaching tools.  
> \* Posting materials for distance learning.  
> \* Developing databases of copyrighted works for research.  
> \* Sharing articles and other materials with colleagues and the  
> community.  
> \* Developing digital libraries.  
> \* Storing copies for preservation programs.  
> \* Placing copies on library reserves.  
>  
> Fair use may not be what you expect. Whether or not you are within the  
> boundaries of fair use will depend on the facts of your particular  
> situation. What exactly are you using? How widely are you sharing the  
> materials? Are you confining your work to the nonprofit environment of  
> the university? To determine whether you are within fair use, the law  
> calls for a balanced application of these four factors:  
>  
>  
> The Purpose of the Use.  
>  
> Generally a nonprofit, educational use will be favored over a  
> commercial use.  
>  
>  
> The Nature of the Copyrighted Work.  
>  
> You can potentially make some fair use of any work, but some works get  
> more favorable treatment than others.  
>  
>  
> The Amount or Substantiality of the Work Used.  
>  
> Typically, the more you use, the less likely you are within fair use.

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> But you might be outside the boundaries if you use the most important  
> parts, or the "heart," of a work.

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>  
>           The Effect of the Use on the Market for the Work.

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> If your use substitutes for a purchase of the work, or otherwise  
> impairs the value of the work used, then this factor may weigh against  
> fair use.

>  
> Updated: /Fri, 03/14/2008 - 19:58/

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