

EXHIBIT E

Unknown

From: Kenneth Crews [kcrews@columbia.edu]
Sent: Friday, January 30, 2009 1:49 PM
To: Gary, Laura
Cc: Askew, Tony; Schaetzel, Steve; Swift, Kristen
Subject: Re: Checklist



Revised Fair Use
Checklist Geo...

Laura: Attached is the checklist with my suggestions. I have included most of them in comments, and a few in track changes. I am fairly easy to reach today, so call or send an email if you want to talk about anything.

Kristen: A while back you had a quick question about my publications. Please call me if you want to talk about anything.

Thank you,
Kenny Crews
Phone: 212-851-0757

Gary, Laura wrote:

> Kenny--

>

> Please see attached.

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> *Laura Gary*

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Fair Use Checklist

Name: _____ Date: _____

Class or Project: _____

Course and Term: _____

Title of Copyrighted Work: _____

Author and Publisher: _____

Portion(s) to be used (e.g., pages, timer counts): _____

Instructions: Where the factors favoring fair use outnumber those against it, reliance on fair use is justified. Where less than half the factors favor fair use, instructors should seek permission from the rights holder. Where the factors are evenly split, instructors should consider the total facts weighing in favor of fair use as opposed to the total facts weighing against fair use in deciding whether fair use is justified. Not all of the facts will be present in any given situation. Check only those facts that apply to your use. No single item or factor is determinative of fair use; reach a conclusion only after considering all relevant facts and all four factors. Instructors should consult the Legal Affairs office at their institution or at the Office of the Board of Regents if they have questions regarding analysis of the four factors.

Comment: fewer

Comment: ...consider the overall persuasiveness of the facts and circumstances weighing for and against fair use....

Comment: ...of the facts set forth on this checklist will be present in or relevant to any given situation.

For more information regarding the fair use factors, please see the fair use sections of the Policy on the Use of Copyrighted Works in Education and Research for the University System of Georgia, which can be found on the web at <http://www.usg.edu/copyright/>.

Complete and retain a copy of this checklist for each "fair use" of a copyrighted work in order to establish a "reasonable and good faith" attempt at applying fair use should any dispute regarding such use arise.

Factor 1: Purpose and Character of the Use

Weighs in Favor of Fair Use

- Nonprofit Educational
- Teaching (including multiple copies for classroom use)
- Research or Scholarship
- Criticism, Comment, News Reporting, or Parody

Weighs Against Fair Use

- Commercial activity
- Profiting from use
- Entertainment
- Non-transformative
- For publication
- For public distribution

- Transformative (use changes work for new utility or purpose)
- Personal Study
- Use is necessary to achieve your intended educational purpose

- Use exceeds that which is necessary to achieve your intended educational purpose

Comment: Based on my other comment, if we need to edit on this side of the chart, I would say drop this box. The word "exceeds" usually refers to something about "amount." You do include that concept in the third box of the third factor.

Comment: Not sure we want this item. If the purpose is educational, that box is already checked. The notion of "necessary" only seems to suggest a degree of importance for education.

Comment: Inserting this word clarifies the use of the following choices.

Overall:

- Factor Weighs in Favor of Fair Use
- Factor Weighs Against Fair Use

Factor 2: Nature of Copyrighted Work

Weighs in Favor of Fair Use

Weighs Against Fair Use

- Published work
- Factual or nonfiction work
- Important to educational objectives

- Unpublished work
- Highly creative work (art, music, novels, films, plays, poetry, fiction)
- Consumable work (workbook, test)

Overall:

- Factor Weighs in Favor of Fair Use
- Factor Weighs Against Fair Use

Factor 3: Amount and Substantiality of Portion Used

Weighs in Favor of Fair Use

Weighs Against Fair Use

- Small portion of work used
- Portion used is not central or significant to entire work as a whole
- Amount taken is narrowly tailored to educational purpose, including criticism, comment, research, or subject being taught

- Large portion or entire work used
- Portion used is central to the work or "heart of the work"
- Amount taken is more than necessary for criticism, comment, research, or subject being taught

Deleted: such as

Overall:

- Factor Weighs in Favor of Fair Use
- Factor Weighs Against Fair Use

Factor 4: Effect on Market for Original

Weighs in Favor of Fair Use

- No significant effect on market or potential market for copyrighted work
- Use stimulates market for original work
- No similar product marketed by the copyright holder
- No longer in print
- Licensing or permission unavailable
- Supplemental classroom reading
- One or few copies made or distributed
- User owns lawfully acquired or purchased copy of original work
- Restricted access (to students or other appropriate group)

Weighs Against Fair Use

- Significantly impairs market or potential market for copyrighted work or derivative
- Licensing or permission reasonably available
- Numerous copies made or distributed
- Repeated or long-term use that demonstrably affects the market for the work
- Required classroom reading
- User does not own lawfully acquired or purchased copy of original work
- Unrestricted access on the web or other public forum

Overall:

- Factor Weighs in Favor of Fair Use* *Factor Weighs Against Fair Use*

*Revised for use by the University System of Georgia, based upon the Copyright Advisory Office at Columbia University's "Fair Use Checklist",
<http://www.copyright.columbia.edu/fair-use-checklist>*