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Fair Use Exception

- Four-Factor Analysis
 - Factor 1. **Purpose of the use**
 - Use for nonprofit educational (as opposed to commercial) purpose more likely fair
 - “Transformative” use, using the existing work in a new way or for a new purpose more likely fair



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Fair Use Exception

- Four-Factor Analysis
 - Factor 2. **Nature of the copyrighted work**
 - Use of a factual work (as opposed to creative, fictional one) more likely fair
 - Use of a published work (versus an unpublished one) more likely fair
 - Use of an out-of-print work more likely fair



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- Four-Factor Analysis
 - Factor 3. **Amount and substantiality of the portion used**
 - The smaller the portion used the more likely use is fair
 - The less central or significant the portion used the more likely use is fair
 - Stronger case for fair use if no more of original is taken than necessary



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- Four-Factor Analysis
 - Factor 4. **Effect of the use upon the potential market for or value of the copyrighted work**
 - Use that will deprive owner of income, profits less likely fair
 - Use that produces a work that can substitute for the work less likely fair
 - Use of something for free that other people are paying for less likely fair



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