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As a test of fair use in ETDs at Virginia Tech: Melissa Utt, M.Arch 3 thesis "Building the Tango"

ETD Image 1 <sup>test of</sup>

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used
	Portion used is not central or significant to entire work	Portion used is central to work or "heart of the work"
	X Amount is appropriate for favored educational purpose	
<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
	One or fewer copies made	Significantly impairs market or potential market for copyright work or derivative
	X No significant effect on the market or potential market of copyrighted work	Reasonably available licensing mechanism for use of the copyrighted work
	No similar product marketed by the copyright holder	Affordable permission available for using work
	Lack of licensing mechanism	Numerous copies made
		X You made it accessible on Web or in other public forum
		Repeated or long term use

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test of  
ETD Image 2

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
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<b>Nature of the Copyrighted Work</b>		
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test of  
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		Bad-faith behavior	
		Denying credit to original author	
	X Transformative: changes the original work for new purpose		
		Parody	
<b>Nature of the Copyrighted Work</b>			
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for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)	
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test of  
ETD Image 6

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	X Nonprofit university	Entertainment
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	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	X Unpublished work
for example, fact or fiction	X Factual or non-fiction based	X Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
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Applications

Online Friends (3)

InboxSent MessagesNotificationsUpdatesCompose Message

permission to use photograph  
Between Taiyo Watanabe and You



Melissa Utt  
September 28 at 4:26pm

Hey Mello Yellow,

I wanted to get your permission to use your photo of Yokohama International Port Terminal in my Master of Architecture thesis dissertation. I had previously used a photocopied picture from Architectural Record as inspiration for my thesis, but do not have a suitable photo to show in my dissertation. I found your image on flickr and think it is exquisite. I will, of course, cite you in my bibliography but wanted to check with you first.

Thank you,  
Melissa Utt  
University of Louisiana  
School of Architecture & Design, Instructor



Taiyo Watanabe  
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September 28 at 7:30pm  
Report Message

Hi melissa, I'd be delighted for you to use my image of the Yokohama port terminal for your thesis dissertation. Please make image credits to 'Taiyo Watanabe'. Also I would like a copy of the dissertation for my record.

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<b>Purpose and Character of Use</b>		
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	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
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<b>Effect</b>		
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ETD Image 8

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
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<b>Nature of the Copyrighted Work</b>		
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 ETD Image 10

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			Repeated or long term use

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ETD Image 14

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used
	Portion used is not central or significant to entire work	Portion used is central to work or "heart of the work"
	X Amount is appropriate for favored educational purpose	
<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
	One or fewer copies made	Significantly impairs market or potential market for copyright work or derivative
	X No significant effect on the market or potential market of copyrighted work	Reasonably available licensing mechanism for use of the copyrighted work
	No similar product marketed by the copyright holder	Affordable permission available for using work
	Lack of licensing mechanism	Numerous copies made
		X You made it accessible on Web or in other public forum
		Repeated or long term use

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test of  
ETD Image 15

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used
	Portion used is not central or significant to entire work	Portion used is central to work or "heart of the work"
	X Amount is appropriate for favored educational purpose	
<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
	One or fewer copies made	Significantly impairs market or potential market for copyright work or derivative
	X No significant effect on the market or potential market of copyrighted work	Reasonably available licensing mechanism for use of the copyrighted work
	No similar product marketed by the copyright holder	Affordable permission available for using work
	Lack of licensing mechanism	Numerous copies made
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ETD Image 16

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used
	Portion used is not central or significant to entire work	Portion used is central to work or "heart of the work"
	X Amount is appropriate for favored educational purpose	
<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
	One or fewer copies made	Significantly impairs market or potential market for copyright work or derivative
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test of  
 ETD Image 17

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	X Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	X Large portion or whole work used
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ETD Image 18

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	X Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	X Large portion or whole work used
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)	
<b>Purpose and Character of Use</b>			
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity	
	X Scholarship	Profit (monetarily) from use	
	X Nonprofit university	Entertainment	
		Bad-faith behavior	
		Denying credit to original author	
	X Transformative: changes the original work for new purpose		
		Parody	
<b>Nature of the Copyrighted Work</b>			
character of the work	X Published work	Unpublished work	
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)	
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction	
<b>Amount and Substantiality</b>			
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used	
		Portion used is central or significant to entire work	
	X Amount is appropriate for favored educational purpose		
<b>Effect</b>			
harm to potential market or value of a work after a portion has been used separately from the whole		User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	X Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	X Large portion or whole work used
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	X Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	X Large portion or whole work used
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
<b>Amount and Substantiality</b>		
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	No similar product marketed by the copyright holder	Affordable permission available for using work
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
	X Nonprofit university	Entertainment
	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction
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Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
	X Scholarship	Profit (monetarily) from use
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	Criticism	Bad-faith behavior
	Comment	Denying credit to original author
	X Transformative: changes the original work for new purpose	
	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
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<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
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	Parody	
<b>Nature of the Copyrighted Work</b>		
character of the work	X Published work	Unpublished work
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)
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ETD Image 26

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<b>Purpose and Character of Use</b>		
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity
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<b>Effect</b>		
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	Lack of licensing mechanism	Numerous copies made
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test of  
 ETD Image 27

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<b>Purpose and Character of Use</b>		
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<b>Nature of the Copyrighted Work</b>		
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<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
	One or fewer copies made	Significantly impairs market or potential market for copyright work or derivative
	X No significant effect on the market or potential market of copyrighted work	Reasonably available licensing mechanism for use of the copyrighted work
	No similar product marketed by the copyright holder	Affordable permission available for using work
	Lack of licensing mechanism	Numerous copies made
		X You made it accessible on Web or in other public forum
		Repeated or long term use

DRAFT Fair Use Checklist adapted from the Copyright Management Center at IUPUI  
<http://www.copyright.iupui.edu/checklist.htm> (accessed Oct 28, 2008). See also the University of Minnesota's "Fair Use Analysis Tool" at <http://www.lib.umn.edu/copyright/checklist.phtml>

As a test of fair use in ETDs at Virginia Tech: Melissa Utt, M.Arch 3 thesis "Building the Tango"

test of  
ETD Image 28

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)	
<b>Purpose and Character of Use</b>			
commercial or educational use for profit or not degree of transformation; value added for criticism, commentary, news reporting, teaching, scholarship, research	X Research	Commercial activity	
	X Scholarship	Profit (monetarily) from use	
	X Nonprofit university	Entertainment	
		Bad-faith behavior	
		Denying credit to original author	
	X Transformative: changes the original work for new purpose		
		Parody	
<b>Nature of the Copyrighted Work</b>			
character of the work	X Published work	Unpublished work	
for example, fact or fiction	X Factual or non-fiction based	Highly creative work (art, music, novels, films, plays)	
worthy of (extensive) protection?	X Important to favored educational objectives	Fiction	
<b>Amount and Substantiality</b>			
use only what's necessary quantity and quality in relation to the whole work	X Small quantity of the work	Large portion or whole work used	
		Portion used is central or significant to entire work	
	X Amount is appropriate for favored educational purpose		
<b>Effect</b>			
harm to potential market or value of a work after a portion has been used separately from the whole		User has lawfully acquired copy of the original work	Could replace sale of copyrighted work
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			Repeated or long term use