

DRAFT
Virginia Tech Fair Use Analysis Checklist

Feb. 18, 2009

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In addition to a web-based Fair Use Analysis Tool being developed by DLA at the request of the Graduate School, there are also various mechanisms available to help you determine whether you may use another's copyrighted work without asking permission. See the Fair Use Checklist adapted from the Copyright Management Center at IUPUI <http://www.copyright.iupui.edu/checklist.htm> and the University of Minnesota's "Fair Use Analysis Tool" at <http://www.lib.umn.edu/copyright/checklist.phtml>

[Include a description and/or the citation for the item under consideration for fair use.]

Factor 1: Consider the purpose and character of the use you made of someone else's copyrighted materials in your ETD.

Known assumptions impacting this factor: VT ETDs freely available on the Internet is considered the equivalent to having multiple copies available. VT is a non-profit educational institution. One purpose of the use is research, academic and educational.

1. Was the purpose of your use of the copyrighted work for a business purpose or commercial activity?

Yes

No

2. Was the reason for using the copyrighted work to entertain?

Yes

No

3. Was criticism, commentary, news reporting, or parody a reason for using the copyrighted work in your ETD?

Yes

No

4. Have you given credit to the author or creator of the copyrighted work in your ETD?

Yes

No

5. Did you redo or alter the copyrighted work to serve a new purpose when you used it in your ETD?

Yes

No

Factor 2: Consider the nature of the copyrighted work you used in your ETD.

1. Is it a creative work, such as a painting, poem, or work of fiction?

Yes

No

2. Did it come from a published work?

Yes

No

3. Is it a factual work, such as a quote from a scientific journal, a graph or table derived from statistical data?

Yes

No

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Factor 3: Consider the extent and significance of the copyrighted work you used.

1. Did you use a substantial portion of the copyrighted work?
Yes No
2. Was the part of the copyrighted work you included in your ETD a negligible part of the copyrighted work?
 Yes No
3. Was the portion of the work you included in your ETD a noteworthy part of the copyrighted work?
Yes No

Factor 4: Consider the effect your use of the copyrighted material will have on the sale or potential sale of the copyrighted work.

1. Did you lawfully acquire a copy of copyrighted material you used in your ETD?
 Yes No
2. Could access to the copyrighted work in your ETD have a notable effect on the market or potential market for the original work?
Yes No
3. Is there a licensing mechanism in place for using the copyrighted work?
Yes No
4. Could access to the copyrighted material in your ETD replace the sale or use of original copyrighted work?
Yes No
5. Would it be affordable (i.e., cost-effective) for you to get permission for using the copyrighted work?
Yes No