Identify item you wish to use in your course

Is item in Public Domain?

Does item made available through Creative Commons?

Is item available through the UCSF Library?

Do you own copyright?

Do the UC Regents own the copyright?

Do you have written permission from the copyright holder?

Can you identify item you wish to use in your course?

Consult with the Education & Copyright Librarian: peggy.tahir@ucsf.edu

CAUTION: you have published the item you may have transferred copyright. Are you sure you retained the rights to use the item in this manner?

OK to Use

OK to Use Once (maybe twice)

Fair Use requires spontaneity; reusing an item repeatedly, term after term, does not qualify as a Fair Use

Does this use qualify as a Fair Use, using the Four Factor balancing test? (see sidebar)

Amount and Substantiality of Portion Used

In general, the smaller the portion used, the more likely the finding of fair use, although in some instances only the entire work can be used reasonably. Try to use the smallest amount that serves your educational purpose.

Employing the Fair Use Doctrine

Determining whether an item can be used without permission under the Fair Use Doctrine requires the balancing of four factors:

1. Purpose and Character of Use

Non-profit educational uses tend towards fair use; commercial uses tend against fair use.

2. Nature of Copyrighted Work

Factual information tends towards fair use; fictional, imaginative works tend against fair use. Also, published works tend towards fair use; unpublished works tend against fair use.

3. Amount and Substantiality of Portion Used

In general, the smaller the portion used, the more likely the finding of fair use, although in some instances only the entire work can be used reasonably. Try to use the smallest amount that serves your educational purpose.

4. Market Effect

Generally: will this use have an effect on the copyright holder’s ability to profit from the original? The less of an impact, the better for finding fair use.

In determining if a use was fair, a judge must weigh these four factors individually and in total, though studies show the 1st and 4th factors often get the most attention.

Recent rulings have also tended towards fair use for works that are transformative – where the derivative work is substantially different from the original – and to works that parody the original.

Remember: It is always better to provide a link to library resources rather than upload the PDF.

This will take some time, and though such requests get priority, the library budget is limited.

Request that the UCSF Library license/purchase the item

Obtain written permission from the copyright holder

You then have three choices*

Fair Use requires spontaneity; reusing an item repeatedly, term after term, does not qualify as a Fair Use

Require your students to individually purchase the item

* If none of these choices are desirable, then consider locating alternative materials either available freely or through the library

BEGIN