

Abstract

Legal Review of the Issue regarding the Use of Others' Copyrighted Works against Public Institutions

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The Copyright Act confers on the owner of original works of authorship the exclusive right to copy and distribute the work. However, the exclusive right is subject to a list of statutory exceptions, including the fair use exception. According to Art. 28, Works already made public may be quoted for news report, criticism, education, research, etc., in compliance with the fair practices within the reasonable extent. Also, Art. 35-3 provides explicitly that “the fair use of a copyrighted work...is not an infringement of copyright”. Although fair use is an equitable rule of reason that is not precisely defined, the Copyright Act provides a framework of analysis to assist courts in determining whether an otherwise infringing use should be excused because it is a fair use. The Copyright Act offers four factors to guide the determination of whether a particular use is fair use. Fair use determination are not based on a mechanical application of the four non-exclusive fair use factors. Instead, all factors are to be explored and the results weighed in light of the purposes of copyright. Since the fair use doctrine is an equitable rule of reason, no generally applicable definition is possible, and each case raising the question must be decided on its own facts.

Keywords

Reproduction, Authorization to Exploit Works, Purpose of Use in the administrative Organs, Private Use, Quotation from Works, Fair Use

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