



6 FIGURES

Who Helped Make the World Safe for Students and Scholars

**Or, a Nineteenth-century Judge, Twentieth-century Religious
Fundamentalist, Photographer, Musicians, and Animals Walked
into a Courtroom...and the Rest Is Legal History**

Ever think about why you're able to legally use the work of others in your own academic work? It's the same reason that Woody Allen could use the words of William Faulkner in his 2011 film *Midnight in Paris*: the expansive, flexible legal doctrine of fair use. This part of U.S. Copyright Law underpins much of scholarly teaching and research, including journal articles, books, and multimedia presentations.

CELEBRATE FAIR USE WEEK

FEBRUARY 23-27, 2015, by teaching, learning, and
advancing knowledge. Exercise the four fair use factors:

- The purpose and character of the use: **Transform it!**
- The nature of the copyrighted work: **Use published factual works!**
- The amount and substantiality of the portion used: **Use just the parts you need!**
- The effect of the use upon the potential market: **Figure out if there's an existing market for the work you want to use!**

For more information, email <copyright@library.ucla.edu>.

And say a **BIG THANK YOU** to these brave trailblazers:

1. George Washington

Copying hundreds of pages from a Washington biography without the publisher's permission led to an 1841 ruling by Judge Joseph Story in which he established the concept of "fair use."

Bonus: Fair use was codified into law in the Copyright Act of 1976.



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2. Reverend Jerry Falwell

Falwell's use of copies of Larry Flynt's disparaging remarks about him in *Hustler Magazine* for fundraising purposes was allowed under fair use in this 1985 decision.

Bonus: Of the four fair use factors, Falwell's use was found to not have impacted the marketability of the magazine.

3. Puppies

In 1992 artist Jeff Koons's use of Art Rogers's photo of a couple with their arms full of puppies was ruled a violation of the photographer's copyright.

Bonus: Koons unsuccessfully argued that his sculpture was a parody, allowed by the fair use factor covering the purpose and character of the use.

Sharon E. Farb, CC BY



4. 2 Live Crew

The group's use of the intro music and lyrics of Roy Orbison's version of "Oh Pretty Woman" on its 1989 song "Pretty Woman" was covered by fair use.

Bonus: The third fair use factor, the amount and substantiality of the part used, was integral to the court's decision.



The Doppelganger, CC BY-SA



UCLA Library Los Angeles Times
Photographic Archive, CC BY

5. Richard Nixon

When *The Nation* magazine published unauthorized excerpts of Gerald Ford's not-yet-released biography detailing his pardon of Nixon, it violated copyright.

Bonus: *The Nation's* fair use argument was rejected on three of the factors.

6. An Elephant

Libraries that enabled Google to scan their books, then used the scans for preservation, full-text searching, and disabled access are covered by fair use.

Bonus: The court's analysis relied heavily on the first fair use factor, the purpose and character of the work, considering the libraries' use transformative.



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