

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: _____
test of

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Unpublished work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