

The Case Against Google Print: Understanding the Scope and Limits of Fair Use in the Digital Age

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Copyright is a set of exclusive rights granted by the government for a limited time to protect an idea or information expressed. With the entrance of Google Print Library, this right has suddenly been thrown in limbo. This Article examines the case against Google print and its alleged copyright infringement by presenting both sides of the argument. It is the belief of the Author that digitally scanning and uploading the copyrighted works without permission or consent violate their rights under the Copyright Act. It therefore constitutes massive copyright infringement. Google, on the other hand, claims that its use of portions of copyrighted works falls under the fair use doctrine under the Copyright Act.

Google, Inc. had noble intentions when it established the Google Print Library. The goal was to establish an online Library that makes it easier for people to research data and at the same time to increase the visibility of books by authors. Unfortunately, this has led to mixed reactions. To determine whether there was indeed copyright infringement, the four-factor test must be applied.

The first factor is the determination of the purpose and character of the use, whether it is commercial or transformative. In the case of Google, the use is clearly commercial. The second factor is the nature of the copyrighted work. Google copied both fact-based books and purely creative works. It is deemed that works which are creative in nature are close to the core of intended copyright protection that the fact-based books. The third factor is the amount and substantiality of the portions used. Google copies the entire text for storage in its search databases but its copying is deemed reasonable and necessary for the effective search of the books. The last factor is the effect of the use upon the potential market, which is considered to be the most important factor in the fair use analysis. Unfortunately for Google, its act of copying violates the right to reproduction of copyright holders and this affects the potential market for digitized books.

Based on the factors, the Note discusses the application of the Fair Use doctrine in determining whether there has been a violation of the Copyright Law. The Fair Use doctrine provides a balancing act between author's rights

and the public interest. The Author believes that court decisions in the future must make clear pronouncements on such issues as this will determine how similar circumstances will be decided in the Internet age.