Google Books

and the Fair Use Doctrine

by Phong Dang

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# Introduction to Google Books

Copying a copyright-protected book, providing the copy online for people to read and getting paid for it (through advertising -- commercialization) is exactly the type of activities that copyright laws were meant to protect against. So why is Google Books able to circumvent this basic fundamental protection of copyright laws? By exercising the fair use doctrine to limit copyright protection. Google was able to convince a Federal District Court Judge, Judge Chin, that its use of scanned copyright-protected books constitutes fair use, as defined by statute.

Although Google Books may be tip toeing around a copyright infringement tightrope with its digitization of printed materials (books, magazine articles, newspaper articles, etc), the actual use of the digitized media is not for the purpose of copying a copyrighted material and giving it away for profit. Google claims the digitization of the printed material is for the purpose of allowing people to ‘search’ books, traditionally in printed formats, by using key words. Books and articles that may be relevant to a word or selection of words may be searched and retrieved for the user against all books in the world. Books in the public domain may be fully viewed and downloaded. Copyright-protected books without the author’s consent will have ‘snippet’ views of words and/or pages surrounding the searched word for a user to review the words in its context within the book. If a user wants to purchase the book, Google Books will send them to the author’s site or an online retailer for purchase. This limited use of the copyrighted material is argued by Google to be fair use.

Before getting too far ahead in our discussion, let’s take a few steps back to explain how Google Books works and the transformative uses that Google is relying on to leverage the fair use doctrine.

## What is Google Books?

Google Books (previously known as Google Book Search and Google Print) is a service from Google, Inc. that searches the full text of books and magazines that Google has scanned, converted to text using optical character recognition, and stored in its digital database. In December of 2004, Google announced its partnership with several high-profile university and public libraries to scan and digitize their book collections so users may search for those books using Google’s search engine.[[1]](#footnote--1) Initially, Google planned to digitize and make available through its Google Books service approximately 15 million volumes within a decade. [[2]](#footnote-0)

In 2010, Google estimated there to be about 130 million unique books in the world.[[3]](#footnote-1) Google hopes to scan them all by the end of the decade.[[4]](#footnote-2) As of April 2013, Google has scanned about 30 million books already.[[5]](#footnote-3)

## 

## How Does Google Book Work?

Users can go to the Google Books site (books.google.com) and search for books based on keywords. Results from Google Books show up in both Google Web Search and the dedicated Google Books site (books.google.com). Up to three results from the Google Books index may be displayed, if relevant, above other search results in Google Web Search.

A click on a result from Google Books opens an interface in which the user may view all pages from the book if it is out of copyright or if the copyright owner has given permission. Books in the public domain are available in "full view" and free for download. For in-print books where permission has been granted, the number of viewable pages is limited to a "preview" set by a variety of access restrictions and security measures, some based on user-tracking.[[6]](#footnote-4) For books where permission for a "preview" has been refused, only permission for "snippets" (two to three lines of text) may be permitted, but the full text of the book is searchable on this limited basis. Where the owner of a book cannot be identified, a "snippet" view may be implemented. For other books that have neither a "full view" nor "preview", the text is not searchable at all, and Google Books provides no identification of content beyond the book title.

Most scanned works are no longer in print or commercially available.[[7]](#footnote-5) For those books which are still in print or commercially available, the Google Books provides links to the website of the publisher and/or online book retailers for users to make a purchase.

## Who is Supporting Google Books?

In order for Google to launch Google Books with sufficient altitude, Google partnered with institutions with massive libraries of books to digitize. One of the original five supporters of Google Books is Stanford University.[[8]](#footnote-6) Stanford began the project of digitizing its library with Google Books by starting with non-copyright-protected materials available in the public domain such as government collections.[[9]](#footnote-7) Although Stanford started with public domain works, Stanford, in 2005, believed that “courts reviewing these cases (The Authors Guild (“AG”) v. Google and The Association of American Publishers v. Google) will conclude that making a digital copy for the purpose of indexing and searching works is a fair use.”[[10]](#footnote-8)

Other universities and libraries joined the Google Books’ efforts to digitize their books for the purpose of allowing users all around the world to easily search and discover books that only a small number of people in the world had access to. The other initial 5 institutions include: Harvard, University of Michigan, New York Public Library, University of Oxford. Over the years, more institutions joined the original five, including: Austrian National Library, Bavarian State Library, University of California, Princeton University, Columbia University, Cornell University, and the University of Texas at Austin. All in all, Google is working with over 40 libraries around the world to digitize their collections.[[11]](#footnote-9)

## Who is Opposing Google Books?

Initially, when Google first announced Google Books, early opposition included publishers and authors associations such as The AG and the Associations of American Publishers. In 2005, the AG filed a class action lawsuit against Google while the Associations of American Publishers filed a civil action. In addition to these parties with major lawsuits against Google, others opposing Google voiced their concerns in 2009 when Google and the two plaintiffs were trying to convince the courts to accept their settlement agreement.

During the settlement agreement proposed in 2008, however, many others opposed the settlement because if the settlement was granted, “potentially millions of authors in America and around the world are being coerced into accepting the deal without being fully informed about its implications.”[[12]](#footnote-10) Other opponents of the deal include the National Writers Union, the American Society of Journalists and Authors. Eighteen professors within the University of California system wrote to the court objecting to the agreement because it fails to protect the interests of academic authors and puts profit before the public’s right to information.[[13]](#footnote-11) Even the Department of Justice opposed the settlement for three main reasons: (1) the AG and publishers have inadequately represented the diverse array of interests of authors and publishers who would be bound by the agreement … specifically the interests of so-called "orphan book" rights holders (those who cannot readily be located through a reasonably diligent search); (2) the settlement was inconsistent with the default rules of copyright law which give owners the right to control commercialization of their works; and (3) the proposed settlement contains provisions that may violate federal antitrust laws.[[14]](#footnote-12)

After the ruling on the case between the Authors Guild v. Google, the plaintiffs remained opposed to Google Books, but many others have agreed that Google’s use (scanning for the purpose of searching) of the copyrighted material does in fact fall under the protection of the “Fair Use” doctrine.

## Benefits of Google Books

Judge Chin defined the benefits of Google Books in his opinion of the case when he wrote, “all society benefits.” To further detail how “all society benefits,” Judge Chin detailed the ways in his opinion on the case:[[15]](#footnote-13)

1. It [Google Books] advances the progress of the arts and sciences, while maintaining respectful consideration of the rights of authors and other creative individuals, and without adversely impacting the rights of copyright holders.”
2. “It has become an invaluable research tool that permits students, teachers, librarians, and others to more efficiently identify and locate books.”
3. “It has given scholars the ability, for the first time, to conduct full-text searches of tens of millions of books.”
4. “It preserves books, in particular out-of-print and old print books that have been forgotten in the bowels of libraries, and it gives them new life.”
5. “It facilitates access to books for print-disabled and remote or underserved populations.”
6. “It generates new audiences and creates new sources of income for authors and publishers.”

Furthermore, Judge Chin wrote, “Google Books doesn’t negatively impact the market for books … Google Books feeds the market for books. A reasonable factfinder could only find that Google Books enhances the sales of books to the benefit of copyright holders. Google Books provides a way for authors’ works to become noticed, much like traditional in-store book displays.”[[16]](#footnote-14)

From a practical sense of a user using Google Books, it’s great to be able to turn Google’s web search technologies onto books. It’s amazing what one can find there. Everybody’s lives is better when we can easily search and find almost anything we are looking for in books, that up until recently, were beyond our reach.

# Issues with Google Books

Scanning and digitizing books already in the public domain pose no real issues to the public or the authors who created the work. However, the primary issues arise when Google made unauthorized digital editions of nearly all of the world’s valuable copyright-protected literature and profits from displaying those works. In the views of the AG, such mass digitization and exploitation far exceeds the bounds of fair use defense.

## Overstretching Fair Use Defense

The AG argued that Google’s use of the books is for a commercial purpose and thus the commercialization should be a negative hit to Google in a fair use analysis. Furthermore, fiction vs. non-fiction also makes a big difference in the analysis of fair use, however, Google plans to digitize both without any regards to copyright laws.

## Ignores Orphan Works’ Rights

Google scanned and digitized orphan works without attempting to find or locate the original authors of orphan works. While most entities would not have reproduced orphan works because of the fear of the potential consequences if an orphaned work was claimed by its author later, Google did not appear to worry about that situation.

# US Laws Relevant to Google Books

## Copyright Law

A copyright is a form of intellectual property (“IP”) protection granted by the federal government. A copyright, however, is not “granted” in the same manner as a patent. A patent will be issued only after a patent application has been filed with and approved by the United States Patent and Trademark Office. On the other hand, under current US Copyright laws, a copyright is provided to the authors of “original works of authorship the moment an original work is fixed in a tangible medium of expression” regardless of whether the work has been published or registered. It’s important to note that prior to the Copyright Act of 1976, under the 1909 Copyright Act, to obtain a copyright protection, it was required that a work is registered or a copyright notice was filed. If a copyright notice was not filed or registered, the published work became public domain. However, to align U.S. Copyright law with the rest of the world, the Copyright Act of 1976 removed the requirement to register or provide notice to obtain copyright protection. Furthermore, when the U.S. joined the International Berne Convention, it was a requirement that no registration or notice was necessary to obtain a copyright protection.

While there are significant advantages to federal registration of a copyright, currently no registration is required in order for a copyright to exist. Likewise, no registration is required for an author to begin using the familiar copyright symbol — ©, but given the cost and benefit one should absolutely obtain a registered copyright.

Works of authorship for which copyright protection are available include the following categories or works: (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works. In addition to these categories specifically enumerated in the Copyright Act, the subject matter of copyright also includes compilations and derivative works.[[17]](#footnote-15)

### What does Copyright Law protect?

The owner of a copyright has what is best referred to as a bundle of exclusive rights. The exclusive rights of the copyright owner allow the owner to do and/or to authorize any of the following: (1) reproduction of the copyrighted work in copies or phonorecords; (2) preparation of derivative works based upon the copyrighted work; (3) distribution of copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending; (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.[[18]](#footnote-16)

In the Authors Guild v. Google case, there were no dispute to the facts that Google infringed on the copyrights of the authors when it scanned (copied), digitized (reproduced), and displayed to a user the copied works. The AG argued that Google, by scanning and digitizing the copyright-protected works without the copyright owner’s consent was directly infringing on the owner’s rights to authorize the copying. Furthermore, when Google Books displayed the works, even though only a ‘snippet’ view, AG argued Google further infringed on the owners’ rights to display the works without first receiving permission or authorization from the authors.[[19]](#footnote-17)

However, Google raised a fair use defense to their use of the copyright-protected works. The next section will further describe the fair use doctrine.

### Fair Use – Limitation to Copyright (Google’s Defense)

Fair use is many things. Some people think of it as an escape valve--a means for protected uses of copyrighted works that are important for free speech and critical discourse. But that metaphor can minimize its importance, because fair uses of copyright content are not rare, exceptional cases. They happen all the time. When writers quote each other, they depend on fair use. When video clips get shown on newscasts around the world, that's fair use. It would harm free speech and the ability to engage with the culture around us if every snippet of a copyrighted work (which includes every video that someone records and every word that someone writes) had to be licensed and paid for.

The fact that the copyright owner enjoys “exclusive rights” should not be understood to mean that only the copyright owner may engage in the listed activities (i.e., copying, distributing, performing, etc.). The right of the copyright owner is exclusive in nature, but far from absolute. This is true because of what is called “fair use.” The Copyright Act allows for copyright works to be used, and for such use not to be considered infringement, for purposes such as criticism, comment, news reporting, teaching, scholarship, and/or research, so long as the work is “fairly used.”

### The four factor test for Fair Use

In determining whether the use in any particular Copyright infringement case is a fair use, courts must consider and balance four factors: (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.[[20]](#footnote-18) This is rather vague, by itself, but over time a body of case law has developed that offers a lot more guidance, as judges look at the particular facts before them.

### Orphan Works

An orphan work is a work that still has copyright protection, but for whatever reason, the owner can’t or won’t be found. This inability to request permission from the copyright owner often means orphan works cannot be used in new works nor digitized, except when fair use exceptions apply.

Failing to locate rights holders can be costly since copyright infringement may be subject to statutory damages of up to $150,000 for a willful infringement per incident.[[21]](#footnote-19) This issue arose in the U.S. from the Copyright Act of 1976, which eliminated the need to register copyrighted works. As a result, it made it difficult to find or contact the creator of a copyrighted work if the person or organization was not readily known. Prior to the Copyright Act of 1976, copyright protected must be registered, making it much easier to find and locate the copyright owner.

Therefore, any use of the orphaned work outside of what is permitted as fair use is potentially a violation of copyright. Potential users of orphaned works are often not willing to take on that risk of copyright violation, so they may individually investigate the copyright status of each work they plan to use.

The Authors Guild v. Google case attempted to address this issue in the settlement agreement of 2008, but since the settlement was denied by the courts, orphan works was still a large concern for many authors. One of the reasons Judge Chin denied the settlement agreement was because of Orphan works.

# The Authors Guild v. Google lawsuit

Shortly after Google announced its Google Library Project in 2004, the Authors Guild and the American Association of Publishers filed suit against Google for Copyright infringement. Google raised a fair use defense.

## Attempted settlement

Instead of litigating, the parties focused primarily on settling the case, and in October 2008, Google and the plaintiffs announced a proposed settlement agreement. Instead of being limited to the issues raised in plaintiffs’ complaint (e.g., Google’s scanning of books and showing snippets), the proposed settlement created a business framework that would allow Google to sell access to entire copyrighted works. Objections to the proposed settlement arose from many different groups, including copyright owners, the U.S. Department of Justice, and Google’s competitors. In response to these objections, Google and the plaintiffs made certain revisions (but without changing the fundamental structure of the agreement) and produced the Amended Settlement Agreement (“ASA”). The district court on March 22, 2011 rejected the ASA.  
 There were two specific benefits that the ASA, had it been approved by the district court, would have provided to consumers: (1) Consumers would have gained ready online access to in-copyright out-of-print works that now difficult to locate; and (2) The ASA would have solved the “problem” of “orphan” works by having Google paying royalties to a fund that would have paid out the royalties to the copyright owners of orphaned works if those owners came forward or were otherwise identified.

However, Judge Chin rejected the ASA because under the ASA, copyright owners not wanting to have their works digitized (and exploited) by Google would have to “opt out” of giving Google carte blanche to do so. According to Judge Chin, this opt-out provision granted Google “the ability to expropriate the rights of copyright owners who have not agreed to transfer those rights.”[[22]](#footnote-20)

The ASA would have given Google the “go-ahead” to copy work from anybody who didn’t tell it not to and lift from those people any remedies for any unauthorized copying. That’s pretty counterintuitive to copyright law and a rather inappropriate attempt to shift the burden to the copyright owner. Copyright law gives owners the right to exclude others from using their works and this includes the right not to sell, license, or distribute. But the ASA would have permitted Google to bypass that very important concept.

## Federal District Court Holding

Judge Chin was required by the Appeals court to rule on the issue of Google’s fair use defense in the lawsuit.[[23]](#footnote-21)

In applying the four-factor test to the Authors Guild v. Google, Judge Chin held:

(1) Google use of the copyrighted works is highly transformative. Google Books digitizes books and transforms expressive text into a comprehensive word index that helps readers, scholars, researchers, and others find books. The use of book text to facilitate search through the display of snippets is transformative. Even assuming Google's principal motivation is profit, the fact is that Google Books serves several important educational purposes. Therefore, the first factor greatly favors a finding of fair use.

(2) The works are books – all types of published books, fiction and non-fiction. “Whether or not a work is published is critical to its nature under factor two because the scope of fair use is narrower with respect to unpublished works.”[[24]](#footnote-22) Therefore, these considerations favor fair use.

(3) Google scans the full text of books—the entire books—and it copies verbatim expression. On the other hand, courts have held that copying the entirety of a work may still be fair use.[[25]](#footnote-23) Here, full reproduction is critical to the functioning of Google Books. Significantly, Google limits the amount of text it displays in response to a search. However, on balance, the third factor weighs slightly against a finding of fair use.

(4) “A reasonable factfinder could only find that Google Books enhances the sales of books to the benefit of copyright holders.”[[26]](#footnote-24) Therefore, this weighs strongly in favor of fair use.

## Results from the Holding

“One key takeaway from this case is validating that companies can invest resources into creating tools that benefit the public without seeking permission from gatekeepers, if their efforts are transformative, which can involve copying and digitizing entire works.”[[27]](#footnote-25)

### It adds to the small body of search engine law

We rely so heavily on search engines that it’s hard to imagine their operations might violate copyright law. Yet, search engines raise complex copyright issues, not all of which have been legally resolved in court. This case extends the canon of search engine copyright law in a favorable direction. In particular, it reinforces that if a search engine shows snippets, any copies it makes along the way are likely to be legally excused.[[28]](#footnote-26)

### It allows Google Book to scan and digitize orphan works

The Court holding indirectly grants Google Books authority to scan and digitize orphan works because the courts held that Google’s use is fair use. The general rule up until the holding is that the inability to request permission from the copyright owner often means orphan works cannot be used in new works nor digitized, except when fair use exceptions apply. Google seems to have solved their issue of digitizing orphan works because of this fair use defense.

### The case rejects concerns about analog-to-digital conversion

Most of the prior search engine copyright cases involved copying information that was already in digital format. The Google Books project was a qualitatively different approach because Google converted analog content into digital. The authors raised numerous scary considerations about this conversion, such as “just one security breach could result in devastating losses to the rightholders of the books Google has subjected to the risk of such a breach by digitizing them and placing them on the Internet.”[[29]](#footnote-27) The court emphatically rejects the authors’ concern about the security of books in digitized format. The judge thought so little of the insecurity argument that the opinion ignored it (other than mentioning that Google takes security measures).[[30]](#footnote-28)

### Judge Chin’s Decision of Fair Use is appealed by the Authors’ Guild.

On April 11, 2014, the Authors Guild filed an appeal in the Authors Guild v. Google case, “accusing the company [Google] of a purely commercial motivation in scanning titles and making them searchable through Google Books.”[[31]](#footnote-29)

The odds are good that this holding will be affirmed on appeal because the Second Circuit’s recent ruling in The Authors Guild v. HathiTrust seemed fair use-friendly.[[32]](#footnote-30) But until we see what the Second Circuit says and how it justifies its result, it’s premature to assume Google will retain its clean win.

# Google Books Moving Forward

With the recent case win from Judge Chin under its belt, Google continues forward with its scanning and digitizing of books for its Google Books project. With a fair use applicable defense, Google is now also able to scan and digitize orphan works. With the ASA denied by Judge Chin, Google does not have to pay authors the 64% of its revenue as a result of a copyrighted work to the authors. Google doesn’t have to pay authors for revenues Google obtained from advertising money as a result of the author’s copyrighted work.

## Where will Google go from here?

Google has maintained from the very beginning that “Google Books is in compliance with copyright laws and acts like a card catalog for the digital age.”[[33]](#footnote-31) Google will continue to build out the Google Books digital library.

## Has Google Books changed the Copyright Laws?

Google Books has not really changed copyright laws. If anything, it has provided more clarity into the fair use doctrine to help companies and organizations understand what is and what is not fair use in the new digital age.

People can build searchable archives of TV news. Image, video, audio, book, and software archives and search engines now know that the copying that they have to build their services is probably fair use. The decision even offers some more clarity for organizations that archive web sites, social media postings, and other online-only materials. At the same time, authors and creators know that these services are only fair uses because they don't compete with or substitute for traditional media markets--just as you can't use Google Books to substitute for buying a book, other new uses of copyrighted material in archives and search engines will bring value to the public without taking away creators' ability to benefit from their work.

# Evaluation of Alternatives

## If Fair Use is not a valid defense, how would Google Books proceed?

Assuming the AG’s appeal of the fair use defense is successful and Google Books violates copyrighted laws. How would Google Books proceed? First, Google will have to remove all copyrighted works that have not been approved by its authors for scanning and digitizing. Second, Google will have to remove all ‘orphan works’ scanned thus far because currently, the only way to copy or digitize orphan works is to have a valid fair use defense. Finally, Google will have to focus only on public domain books and copyright-protected works that they have received permission from the authors to scan, digitize and display only limited, snippet views.

After the initial house cleaning project is underway, Google would have to consider how to incentivize authors of copyright-protected works to allow Google to include their works in Google Books.

Because Google is a for profit organization, not having a Fair Use defense will require Google to find work-around that may actually benefit society in the long run. Who is in a better situation to lead this initiative?

### Leveraging Contract Laws to address Copyrights

Leveraging contract laws by creating incentive programs for authors to opt-in to Google Books may not be Google’s first option but it may be the quickest option to get back on track. Google may want to work with entities that will give Google the best efficiencies such as the American Association of Publishers and the Authors Guild to come up with incentive programs to allow authors within their networks to opt-in or opt-out of Google Books as a part of the author’s general agreement with the relevant association. The incentive programs may require Google to share in some of their commercial benefits. Such benefits may include marketing related revenue derived from Google Books when an authors’ copyright-protected book was displayed on a Google Book search which Google earned a revenue.

### Working with legislatures to come up with a fair solution to address orphan work

It would be in Google’s best interest to work with the legislature to address the orphan works issue. There are a lot of orphan works that are available and without a fair use defense or a change to copyright laws, orphan works may have to be excluded from Google Book’s database. However, if Google takes some time to work with the legislature to carve out an exception to scanning and digitizing orphan works for the benefits of society, there may be a social policy argument to be made on Google’s behalf. Most would agree that Google scanning and digitizing even orphan works would benefit society hugely versus the small expense of an author who is either not claiming their work or is not able to be located.

Google can set up an incentive program that is equivalent to what they would pay a regular author who opt-in to Google Books. For example, a share of the marketing related revenue earned by Google Books as a result of an orphan work being displayed. Google can allocate this revenue to an “orphan works” account, further associating the revenue earned specifically to that orphaned work. If an author somehow claims ownership of the orphaned work at a later date, the author will have choice. (1) The author may choose to cash in on the accrued balance of the revenue earned specifically tied to the work as fair compensation for allowing Google to scan and digitize the work. In addition, the author will consent to Google’s use of all of the author’s works moving forward on a similar incentive program. Or (2) the author may elect to not receive the accrued revenue and opt-out of the Google Books program. Google will have to remove the scanned book from the database until the author decides to opt-in.

Although these options would not be optimal for Google; since Google has to give up some of their marketing revenue, it is not a deal killer for the Google Books project. Google will just profit less, but society as a whole will benefit from the great work that Google has done to digitize and make searchable, a great amount of literary work from all around the world.

# Conclusion

The Authors Guild v. Google Books decision is a good illustration of how fair use works. That decision held that it's legal for Google to make internal copies of books for its book search engine (just as it makes copies of websites for its web search engine). However, because book scanning on this scale is so new, there was not much precedent to guide the court. The judge had to rely on analogical reasoning, his good sense, and the fundamental purpose of copyright law when weighing the fair use four factors. The downside to this is that the case took years to come to a decision (and it could still be overturned on appeal, however unlikely that may be). Legal reforms that sped up this process would be welcome. But the positives outweigh this. Because the Google Books case will serve as a precedent, other book-scanning projects can follow it. Further, it's unlikely that some kind of "safe harbor" system would have foreseen the usefulness of a large-scale book search engine.

In the end, the case-by-case approach works, in practice, as a set of safe harbors that can help the users of copyrighted works stay within the law. Fair use is perfectly suited to this common law approach, as it's a flexible doctrine that can grow to accommodate new technologies and new kinds of uses. While fair use can seem uncertain at times, it's a process that does create certainty. In addition to the Google Books decision, 2013 brought a number of fair use victories, each of which serves as precedent for the future, providing more certainly, and continuing the development of the doctrine of fair use. Fair use may be messy and confusing, but it works because it is the one doctrine that promotes the purposes of copyright to promote technology and innovation in the U.S.A.

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17. 17 U.S.C. § 102 [↑](#footnote-ref-15)
18. 17 U.S.C. § 106 [↑](#footnote-ref-16)
19. *Authors Guild, Inc. v. Google Inc*., 954 F. Supp. 2d 282, 289 (S.D.N.Y. 2013). [↑](#footnote-ref-17)
20. 17 U.S.C. § 107 [↑](#footnote-ref-18)
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22. *The Authors Guild v. Google,* Inc., 2011 WL 986049 (S.D.N.Y. Mar. 22, 2011). [↑](#footnote-ref-20)
23. *See* Metz, *Supra* note . [↑](#footnote-ref-21)
24. *Authors Guild, Inc. v. Google Inc*., 954 F. Supp. 2d 282, 292 (S.D.N.Y. 2013) *quoting* (*New Era Publ'ns Intern., ApS v. Carol Publ'g Grp*., 904 F.2d 152, 157 (2d Cir.1990)). [↑](#footnote-ref-22)
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