

28.4 Copyright

5 "Vor einigen Wochen meldete sich bei mir ein Mann
 ..., der aus zwei Paar alten seidenen Strümpfen ein Paar
 neue machen konnte. Wir verstehen die Kunst aus ein
 paar alten Büchern ein neues zu machen."

*Georg Christoph Lichtenberg: Sudelbücher, F.
 (1776-80) 135 (1984/249).*

28.4.1 Acknowledgements

10 The author is greatly indebted to all authors whose works he has quoted,
 trying to adhere to the doctrine of fair use and the rules of academic con-
 duct, in any case with due statement of the source.

15 Different from the regulations of the Copyright, a quotation to follow, the
 author feels that 'fair use' and 'academic conduct' include acknowledging not
 only 'the particular way an author has expressed himself, but that they *pri-*
marily extend to the ideas, systems, or factual information conveyed' in the
 works quoted.

20 The author is also greatly indebted to all owners of copyrights, maybe dif-
 ferent from the authors. If any of them feels that the present author has in-
 fringed upon their rights he will act according to their requests, in particular
 before publishing subsequent editions, if any.

25 Only in one case the author has repeatedly requested written permission
 to reproduce a short paper *in toto*, without any response. In view of the very
 large number of *selective* quotations, very often from books published dec-
 ades ago, the author has relied on the doctrine of fair use as discussed be-
 low.

28.4.2 Doctrine of fair use

The following quotation on quotations has been taken from an internet en-
 try of the US Copyright Office:

30 "One of the rights accorded to the owner of copyright is the right to re-
 produce or to authorize others to reproduce the work in copies or phono-
 records. This right is subject to certain limitations found in sections 107
 through 118 of the Copyright Act (title 17, U. S. Code). One of the more
 important limitations is the doctrine of 'fair use'. Although fair use was not
 35 mentioned in the previous copyright law, the doctrine has developed
 through a substantial number of court decisions over the years. This doc-
 trine has been codified in section 107 of the copyright law.

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered 'fair', such as criticism, comment, news reporting, teaching, *scholarship, and research*. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair:

- the purpose and character of the use, including whether such use is of commercial nature or is for non-profit educational purposes;
- the nature of the copyrighted work;
- amount and substantiality* of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

The distinction between 'fair use' and infringement may be unclear and not easily defined. *There is no specific number of words, lines, or notes that may safely be taken without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission.*

The 1961 Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as fair use: '*quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported*'.

Copyright protects the particular way an author has expressed himself; it does not extend to any ideas, systems, or factual information conveyed in the work.

The safest course is always to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.

When it is impracticable to obtain permission, use of copyrighted material should be avoided unless the doctrine of 'fair use' would clearly apply to the situation. The Copyright Office can neither determine if a certain use may be considered 'fair' nor advise on possible copyright violations. If there is any doubt, it is advisable to consult an attorney.

FL-102, Revised July 2006." *Italics: MS.*

According to these elaborations *the author has no doubt*, that all his more than 1200 quotations meet the requirements of the doctrine of 'fair use', and thus he did not consult an attorney.

In particular, he feels that 'the effects of the use upon the potential markets for or values of the copyrighted works', if any, will be positive in advertising for the publications quoted, even in cases of criticism and/or parody, *expressis verbis* permitted.

5 **28.4.3 Rules of conduct**

At a later stage the author has inspected the 'Handbook for Students' on 'Academic Integrity at the Massachusetts Institute of Technology' to make sure that he did not offend any rules of conduct (Brennecke, 2005).

10 Clearly the use of quotations purposely differs from that recommended. Further, the naïve idea to quote from and paraphrase only 'important authorities' has not been observed for two reasons:

- firstly, reliable authorities have hardly been found, and
 - secondly, from the outset the goal of the project has been to get away from the repetition of the tribal lore and the litany by 'important authorities'. Quotations are rather intended to provide the flavour of the discussions, sometimes felt to be parodies of themselves, and to demonstrate their deficiencies.
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