

IP Law

Prof. Roger Ford
Class 10 – April 22, 2019
Copyright III: Fair use

17 U.S.C. § 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of sections 106 and 106A, **the fair use of a copyrighted work**, including such use by reproduction in copies or phonorecords or by any other means specified by that section, **for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.** In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (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.

The fact that a work is **unpublished** shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.



Roy Orbison
“Oh, Pretty Woman”

2 Live Crew
“Pretty Woman”