



Expression  
Copyright

# Copyright Fair Use

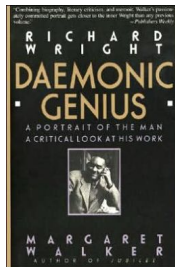
Eric E. Johnson

ericejohnson.com



Konomark  
Most rights sharable

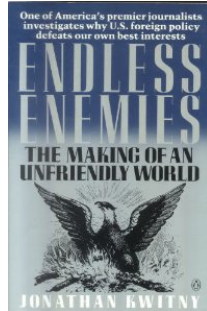
## Wright v. Warner Books, Inc., 953 F.2d 731 (2d Cir. 1991)



Biographer quoted from 6 unpublished letters and 10 journal entries.

**Fair use.** Use was informational, and less than 1% was taken.

Love v. Kwitny,  
772 F. Supp. 1367 (S.D.N.Y. 1989)



Author copied more than 50% of unpublished manuscript to prove a person's involvement in Iranian government overthrow.

**Not a fair use.** Key: amount taken and unpublished status.

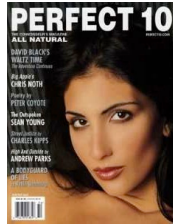
Roy Export Co. of Vaduz v. CBS,  
672 F.2d 1095 (2d Cir. 1982)



75 seconds of 72 minute film used in TV news report on Charlie Chaplin's death.

**Not a fair use.** The court found the portion taken substantial and the "heart" of the film.

## Perfect 10 v. Google



**Not fair use.** Use is “consumptive” rather than “transformative,” and “likely does harm the potential market for the downloading of P10's reduced-size images onto cell phones.”

*Perfect 10, Inc. v. Google*, 416 F.Supp.2d 828 (C.D. Cal. 2006)

## Perfect 10 v. Google



**REVERSED!**



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*Perfect 10, Inc. v. Google*, 416 F.Supp.2d 828 (C.D. Cal. 2006)

## Perfect 10 v. Google

### Fair use.

“Google's use of thumbnails is highly transformative. Although an image may have been created originally to serve an entertainment, aesthetic, or informative function, a search engine transforms the image into a pointer ... directing a user to a source of information.”

*Perfect 10, Inc. v. Amazon. com, Inc. [and Google]*, 508 F. 3d 1146 (9th. Cir. 2007)

## Perfect 10 v. Google

“Just as a "parody has an obvious claim to transformative value" because "it can provide social benefit, by shedding light on an earlier work, and, in the process, creating a new one," Campbell, 510 U.S. at 579<sup>^</sup>, a search engine provides social benefit by incorporating an original work into a new work, namely, an electronic reference tool.”

*Perfect 10, Inc. v. Amazon. com, Inc. [and Google]*, 508 F. 3d 1146 (9th. Cir. 2007)