

Law Firm Copying and Transformative Fair Use: An Examination of Different Purpose

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In several recent lawsuits, publishers sued law firms for copyright infringement. The lawsuits focused on making unlicensed copies of scholarly articles to file with patent applications, including copies for the firm and the firm's clients. In two of these cases, lower court judges determined that the making of unlicensed copies was fair use. The decisions hinged on transformative use, focusing on the defendant's purpose for using the works. There was no alteration or change in the works.

This paper examines the consideration of purpose in determining whether the use of a work is transformative, especially when there is no alteration in the content of the work. It explores the underlying reasons supporting the decisions in these cases by delving further into the fair use of copyrighted materials in judicial and quasi-judicial proceedings. The paper assesses the applicability of this reasoning to copying outside of the patent application process.