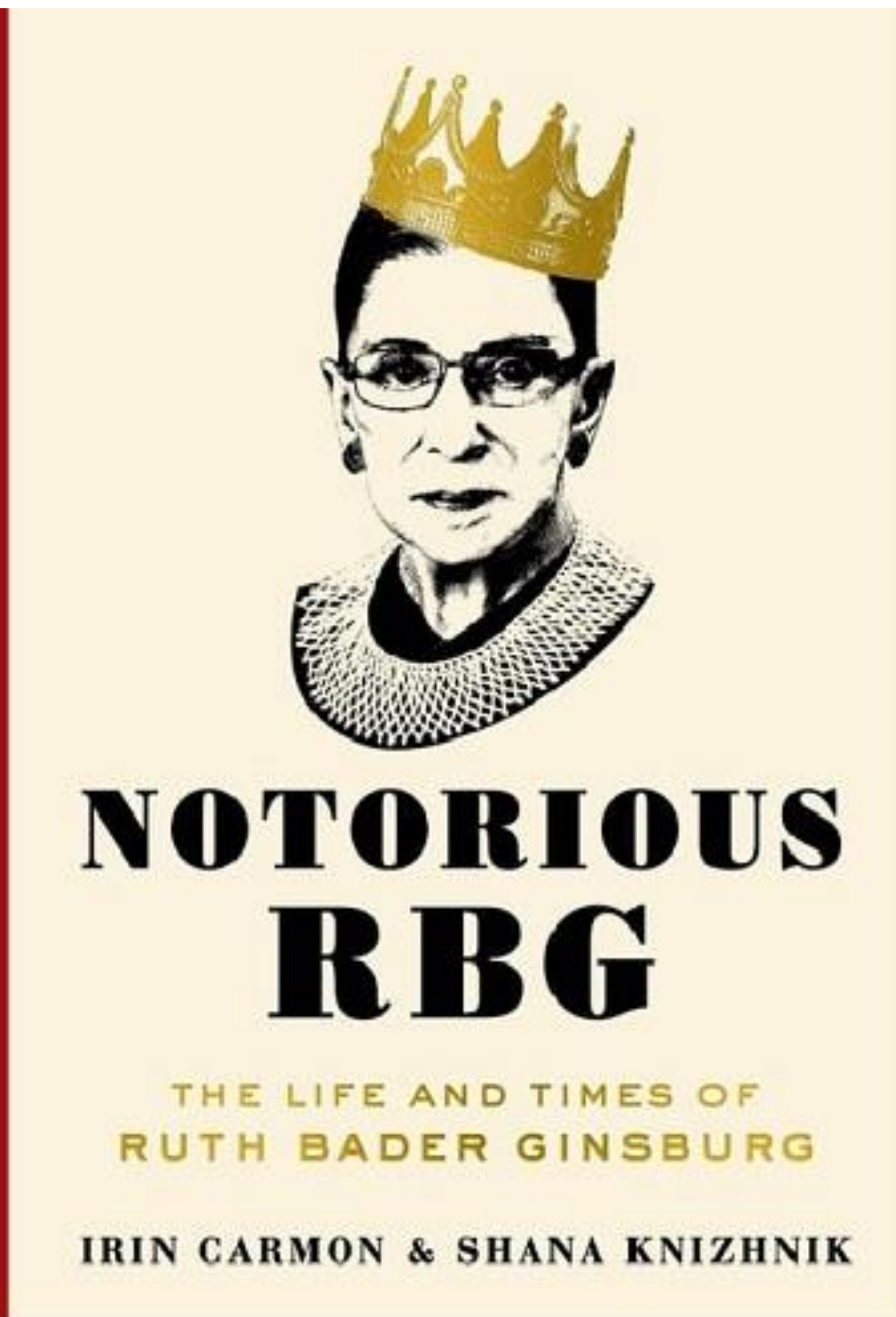


FAIR & OPEN WEEK @ THUN



This side-by-side depiction of a Notorious B.I.G. portrait (by Barron Clairborne via MassAppeal.com) with the Notorious RBG book cover (via RollingStone.com) exemplifies parody as fair use of copyright-protected creative work.

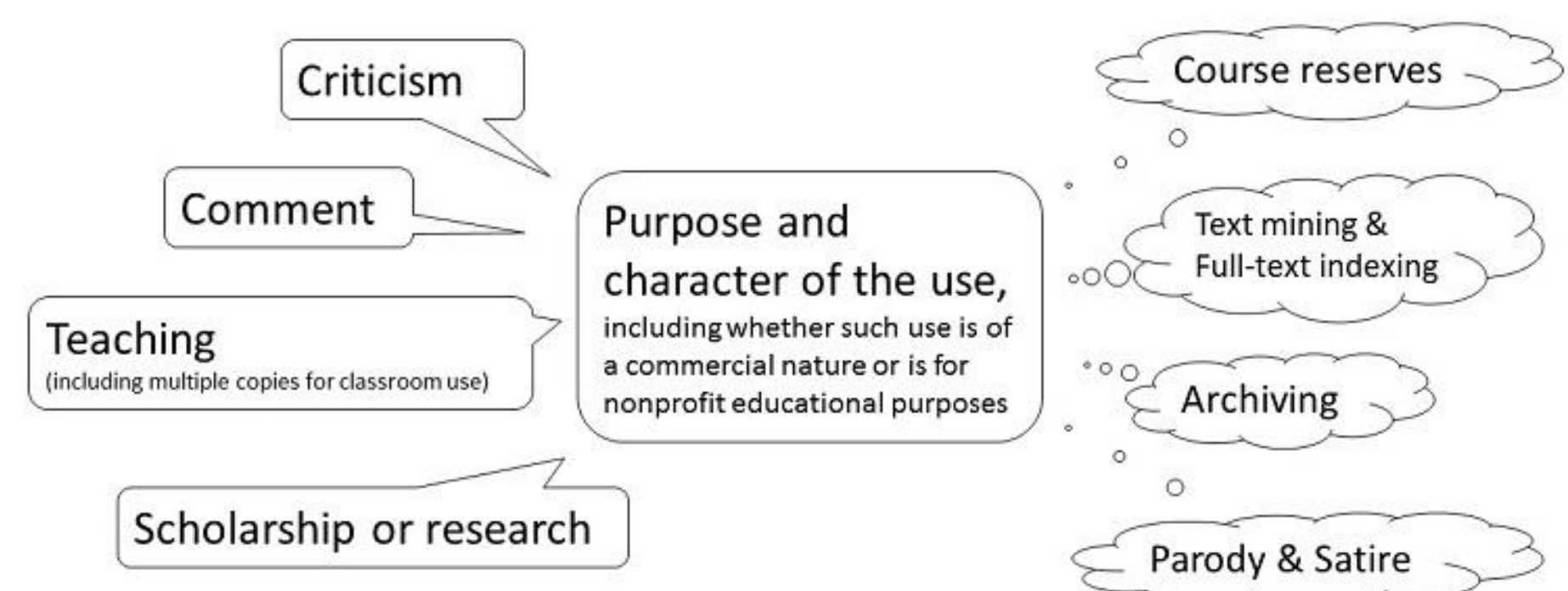
Fair Use is a legal framework that protects the rights of content *users*.

The Fair Use clause of copyright law allows anyone to make use of copyright-protected content when specific criteria are met. The four factors that must be considered when making a Fair Use case are

- (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.

Both the Fair Use clause and subsequent Fair Use case law establish specific purposes in which the use of copyright-protected material is fair and does not constitute infringement, including → → →

This hybrid exhibit celebrates Fair Use / Fair Dealing Week and Black History Month by highlighting how African American creators and cultural icons shaped intellectual property law.



Learn more @ sites.psu.edu/fairandopen or

Comments and questions: UL-BERKS@lists.psu.edu

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Fair Use in a Day in the Life of a College Student



Fair use is a vitally important right for everybody, everywhere. A typical day in the life of a student shows the ways she constantly relies on fair use.

How Allison Relies on Fair Use on Campus



checking email

Allison forwards to her brother an e-mail from her cousin that includes five attached pictures from last weekend's football game and tailgate.¹



in class

In Allison's English class, the professor mentions places James Baldwin frequented in Paris. Allison looks them up online and views photos of these locations and landmarks.²



finishing a paper

Allison scans materials from the library for her paper on James Baldwin. In her paper she includes quotes from Baldwin's essays and from criticisms by Baldwin scholars.³



online

Allison forgot to scan or note one of her sources, so she looks up the quote in Google Books. The search gives her the name of the book and page number seconds later and she is able to turn her paper in on time.⁴



relaxing over lunch

Waiting in line, Allison watches a clip from John Oliver's *Last Week Tonight* that a friend posted on Facebook. She shares the clip on her own Facebook page.⁵



watching shows

While eating, Allison watches an episode of *Game of Thrones*, which was "slung" to her cell phone from her DVR.⁶

1. Allison makes temporary copies when she accesses the e-mail. Forwarding the note and photographs involves reproduction and distribution of her cousin's works. Allison's brother's computer will make more copies to access the forwarded e-mail.
2. The search engine makes copies of the images. Allison's computer makes temporary copies when she views the images online.
3. Quotations involve direct reproduction of portions of these works.
4. Google Books reproduced more than 20 million books when it scanned and indexed these works, making them machine readable and ingesting them into the Google Books database. The public is able to query the database with search terms.
5. Allison's iPad makes temporary copies to access and view the video clip. Allison engages in further distribution of the clip by posting it to her own Facebook page.
6. Allison's DVR made a copy of the episode of *Game of Thrones*. Temporary copies are made on servers.

As a content user, it is **your responsibility** to conform to the four factors of fair use or obtain permission to use another creator's work!

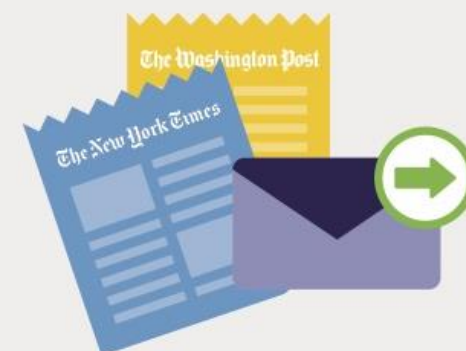
Visit libraries.psu.edu/copyright for more guidance on how to apply the four factors to make a good-faith fair use determination.

How Allison Relies on Fair Use at Home



going home

Allison takes a selfie with a bus stop advertisement for the new Star Wars movie that contains images of Rey and Han Solo.⁷



doing homework

At home, Allison starts a research project for her political science class. She reads the news article her professor posted to Blackboard.⁸ Then she uses a search engine to find relevant online articles in the *New York Times*, the *Washington Post*, and other news outlets.⁹ She pastes the links and full text of the articles into an e-mail to her class partner.¹⁰



remixing

After dinner, Allison finishes an assignment for her literature and pop culture class. She posts a remix video of music and clips from film adaptations of Jane Austen novels to YouTube and sends the link to her professor.¹¹



relaxing before bed

Finished with her homework, she writes a chapter of fan fiction based on *Harry Potter*. She posts the chapter to her blog and to FanFiction.net.¹²

Throughout the day, without even knowing it, Allison engages in many instances of reproduction and distribution of copyrighted works without the authorization of the rightholder. **Fortunately, she can rely on the fair use doctrine, which permits such copying.**

7. The selfie includes a reproduction of the advertisement.
8. Her professor makes a copy when he posts it to Blackboard. Allison's computer makes additional copies when she accesses the article to read it.
9. The search engine makes copies of the news articles in its search database. Allison's computer makes temporary copies when she views the articles online.
10. Allison makes a temporary copy of these websites when she views them. She also makes digital copies of the text in the e-mail server when she sends them to her class partner.
11. Allison makes copies of the Jane Austen film excerpts and creates a derivative work. She makes additional copies when she uploads the remix to YouTube. She distributes it when she posts it to YouTube and when she sends the link to her professor.
12. Allison's fan fiction is a derivative work. Posting it to her blog and FanFiction.net makes additional copies of the derivative work.

Protection

Is the work protected?

Use it!

Fair Use & TEACH Act

Is the use allowed?

Use it!

Obtaining Permission

Have I obtained permission?

Use it!

Find Alternatives

Use alternative content.
(The library can help!)

Commissioned by
ARL
ASSOCIATION OF RESEARCH LIBRARIES

Free to share and reuse

Design by
YIPPA

For more information and additional resources, visit
fairuseweek.org.

Comments and questions: UL-BERKS@lists.psu.edu