

Fair Use in Memes & GIFs

What is fair use and why should I care?

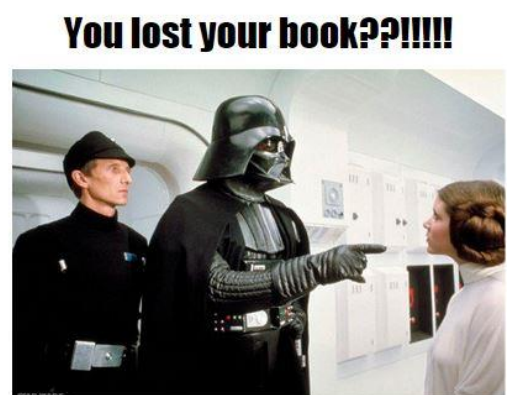
Fair use is a part of U.S. Copyright Law that lets all of us use copyrighted works in limited ways--without permission--for purposes such as education, criticism, parody, and more. It is the broadest limitation on the rights of copyright holders, who in most cases are the only ones who get to decide how to copy, distribute, adapt, perform, or display copyrighted works such as photographs, videos, and music. Fair use is important in upholding our right to free speech and helps us learn from, comment on, and even criticize the world around us.

There's no exact formula for evaluating fair use, but the law describes four broad, flexible "factors" (paraphrased below) to consider when deciding whether or not your use is fair:

1. Why are you using the material? Are you doing something new with it?
2. Is the copyrighted work more creative (less likely to be fair use) or more factual (more likely to be fair use)?
3. How much of the work are you using, and is that amount necessary to meet your purpose?
4. Would your use harm the copyright holder's ability to earn money from the work?

How does fair use apply to memes and GIFs?

A major question that comes up in court battles that address fair use is whether or not the copyrighted material has been *transformed* by adding new meaning or commentary. Many of the best memes and GIFs do just this by combining film/TV stills, short video clips, or brief quotations with new, original text or other images. The end result might parody the original work or joke about some aspect of our culture. But just copying a funny photo and sharing it might not be enough to qualify as fair use; it should be obvious that you are using it in a new way.



You have failed me for the last time!!!

School librarian Sara Romine and her students created library-themed memes like this one, which gives new meaning to a tiny portion of a film.

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Can I use images or videos with people? What about celebrities?

Privacy and copyright law are different, but they often come up at the same time as we create and share memes. When using an image of another person, take time to consider if your meme could be considered an invasion of privacy—for instance, by sharing a photo taken in a private home or copied from a password-protected website—or if you might be spreading false information about someone that could hurt their reputation. If you are using film stills or other images with celebrities, avoid memes that imply the person is endorsing or recommending a product or organization.

Professor: The average test score was a 47%

Class:



I'm not sure if my use is fair. What are my options?

Find an alternative: Millions of photos are in the [public domain](#) (where copyright has expired or doesn't apply) or have been shared by their creators for others to use freely. If you can make the same joke using an out-of-copyright or openly licensed image (e.g. swapping out one cat photo for another), you should. Good places to start include open photo sharing sites like [Pixabay](#) and [Unsplash](#), as well as library or museum sites that let you filter for public domain images such as the [New York Public Library Digital Collections](#) or [Europeana](#).

Try to get permission: If you see a photo or video that you want to use, you can reach out to the person who posted it to see if they created it and can give you permission. Getting permission can be difficult for memes that have been shared and adapted many times.



This tweet references the Apple AirPods meme by using public domain works of art that are too old to receive copyright protection.

Questions? Email us at copyright@uflib.ufl.edu

