



WYOMING
INSTITUTE FOR
DISABILITIES

US COURT OF APPEALS RULES DIGITIZING TEXTBOOKS AS FAIR USE

Learn how this decision impacts accessible materials for students

A recent U.S. Court of Appeals for the Second Circuit decision concluded the creation of accessible, digital text from copyrighted materials (textbooks, workbooks, etc.) is considered Fair Use and is not a copyright violation.

The importance of this decision, as stated by Jim Fruchterman, President and CEO of Benetech and founder of Bookshare, “Individuals, schools and for-profit companies are often called upon to make their materials accessible, and fair use creates a framework that makes much of that work legally possible.” There is now a legal basis to create digital text for students with print disabilities. An example of this process would be scanning a textbook and uploading into a software such as Kurzweil 3000 or Read & Write Gold. It also

allows digital text from a textbook to be placed on an iPad or other mobile device. You or your school district might be doing this already. If so, you might have seen the warning that comes with literacy applications, such as Kurzweil and Read & Write Gold, which states that you need to have permission from the copyright holder before you upload any copyrighted material into their product.

Although this process has been in the “gray” area since the Chafee Amendment to Copyright Law of 1997 and the ADA of 1990, it is now becoming clear that the creation of accessible formats for people with disabilities supersedes the needs of copyright holders.

Barrington D. Parker, Circuit Judge stated, “In the Americans with Disabilities Act, Congress declared that our ‘Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals.’ 42 U.S.C. § 12101(7). Similarly, the Chafee Amendment illustrates Congress’s intent that copyright law make appropriate accommodations for the blind and print disabled.”

WYOMING AIM CLEARINGHOUSE

The Wyoming AIM Clearinghouse works with school districts in Wyoming to provide accessible instructional materials to students with print disabilities. AIM includes large print, braille, audio, and digital text. We are a designated state authorized user for a federally funded, national repository of accessible instructional materials. The Wyoming AIM Clearinghouse can access the repository and provide accessible formats to districts. The Clearinghouse can help identify the appropriate individualized formats for student access. Contact us today if you think you have a student that needs AIM.

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nfb.org/national-federation-blind-applauds-ruling-authors-guild-v-haititrust

Bookshare Blog

bookshareblog.wpengine.com/2014/07/haititrust-fairusevictory

Beneblog: Technology Meets Society

benetech.blogspot.com/2014/01/the-case-for-copyright-exceptions-and.html