

Use of Excerpts From and Linking to Article Found to be Fair Use

OCTOBER 26, 2010

Righthaven, a company which has purchased and owns the copyrights to various news and media articles, has filed multiple lawsuits against various individuals who have reposted, excerpted or quoted one of Righthaven's copyrighted articles. Righthaven has pursued actions against individuals who use the articles in their websites, blogs or other Internet webpages, whether personal or commercial. Notably, it appears that Righthaven does not warn defendants with a cease and desist before filing a lawsuit.

In one of these cases, a court recently held that the defendant's use of a news article was fair use where the defendant used excerpts of the article on his blog and then linked back to the original article. The court determined that the excerpts taken from the article were portions that contained factual news reports, and were thus informational materials rather than creative elements. In addition, only eight sentences out of the thirty sentence article were used. Finally, the court did not believe that the defendant's use of the article had any effect on the market for the original work as it did not contain any portions of the author's commentary and the blog linked directly back to the full text of the work on the author's website.

TIP: It may be possible to use excerpts containing factual information from news articles so long as only a minimal amount is excerpted, the excerpts do not contain the author's creative commentary, and the materials include a link to the original source. With that said, many of Righthaven's lawsuits are still pending and it is possible that other courts may not believe the fair use doctrine applies.

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