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A General "Fair Use" Clause - A Workable Concept in Copyright Law

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Introduction

New Israeli copyright law adopts the American model of an open "fair use" clause.

Flexibility vs. certainty

Proposed Solutions

Special tribunal—declarative decisions approving uses

Safe harbors—regulation

Israeli Copyright Act, 2007, article 19 (c): "The Minister may make regulations prescribing conditions under which a use shall be deemed a fair use."

The Accessible Education Initiative

Intensive need for use of works in academic activity: teaching and research

Uncertainty creates a chilling effect.

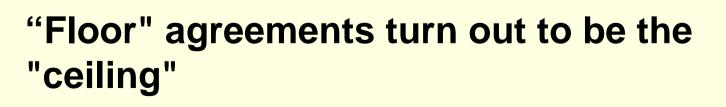
Solution: cooperation between all academic institutions.





Vicious cycle







The Accessible Education Project

Consensus building / dispute resolution mechanism

- Possible goals:
 - 1. Developing a consensus on an appropriate interpretation of the fair use clause
 - 2. Creating a forum for exchange of information
 - 3. Agreeing upon a draft regulation
 - 4. Negotiating collectively with publishers

Insights

Developing a harmonized terminology

Creating a mechanism for countering the chilling effect through exchange of information

Creating social infrastructure to foster understanding within relevant communities

