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US LAW

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EU LAW

As regards the use of copyrighted material within the European Union. The [European Directive 2001/29/EC](#) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society provides in its art. 5 an exhaustive list of exemptions that can be implemented by the Member States.

Amongst that list, the exemption(s) invoked must cover the reproduction and communication to the public (since the publication on the Internet implies those two acts). Generally, exemptions will be based on the purpose of the intended use. For instance, the Directive provides for an exemption to the exclusive right of reproduction and communication to the public when it is made ***for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved.***

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All the exceptions must comply with the three step test which imply that exemptions must only apply in certain special cases (1) which do not conflict with a normal exploitation of the work or other subject-matter (2) and do not unreasonably prejudice the legitimate interests of the rightholder (3).

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