

**Ass'n of Am. Med. Colls. v. Mikaelian,
571 F. Supp. 144 (E.D. Pa. 1983)**

Year	1983
Court	United States District Court for the Eastern District of Pennsylvania
Key Facts	Plaintiff Association of American Medical Colleges (AAMC) owned the Medical College Admission Test (MCAT) copyright. Defendant Viken Mikaelian owned and operated defendant Multiprep, Inc., which prepared students to take the MCAT by providing them with practice materials. Up to 50% of MCAT questions are used in more than one version of the test. Defendant Mikaelian personally took the MCAT eight separate times, and AAMC demonstrated that 879 of the questions in the practice materials that defendants prepared (about 90% of the practice the materials) were identical to questions on the tests administered to defendant Mikaelian. AAMC also alleged that the practice materials gave defendant's students an unfair advantage, thus potentially harming the MCAT's credibility. AAMC sought a preliminary injunction against plaintiff's continued use of actual MCAT questions.
Issue	Whether the use of actual MCAT questions in preparing students to take the MCAT qualifies as fair use.
Holding	The court granted plaintiff a preliminary injunction. It held that the MCAT questions were not merely scientific facts within the public domain, and that defendant's use of its questions did not constitute fair use. The purpose factor did not favor defendants: Multiprep may have had a training function, but its use of the MCAT materials was highly commercial, and the materials were not assembled "to advance scientific knowledge among Philadelphia-area undergraduates." Regarding the nature of the work, MCAT questions were created and used under strict security, and were copyrighted specifically to "prevent their use as teaching aids." The questions were not the type of material that could be fairly used. Concerning the amount and substantiality of the work, nearly 90% of the Multiprep materials were used verbatim, making it unlikely that fair use could apply. Finally, concerning market effect, Multiprep's use of the materials would make the MCAT questions worthless to AAMC, as continued use could "destroy the accuracy and comparability of the MCAT because Multiprep students will have an unfair advantage over others taking the MCAT."
Tags	Third Circuit; Education/Scholarship/Research; Textual work
Outcome	Fair use not found

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