

**Blackwell Publ'g, Inc. v. Excel Research Grp., LLC,
661 F. Supp. 2d 786 (E.D. Mich. 2009)**

Year	2009
Court	United States District Court for the Eastern District of Michigan
Key Facts	Plaintiffs, major publishing houses, alleged that defendant Excel Research Group, LLC's computerized copy shop infringed their copyrights in thirty-three works. Defendants obtained course materials directly from professors and copied those materials to create "coursepacks," which were offered to students at a price much lower than that of the separate publications. Defendants' unique business model also enabled it to charge less than traditional copy shops and the university's photocopy machines. Students would make the copies themselves, using Excel's "master" copy and Excel's machines. Students would fill out a declaration reading, "I am a student in this class and am making a copy for educational purposes." Excel paid no licensing fees for the material. The publishers filed a motion for partial summary judgment.
Issue	Whether the copying of coursepacks, as performed by students and facilitated by defendants' maintenance and lending of the master copies, constituted a fair use.
Holding	The court held that defendants' use of the protected material was not fair and granted summary judgment in favor of plaintiffs. In reaching its decision, the court relied on its findings that the purpose of defendants' use was to facilitate the operation of a "for-profit commercial business." The court also determined that the thirty-three works included in the coursepacks, as selected by professors, were qualitatively significant even though only the necessary amount of the work was reproduced. Finally, the court found that defendants' use had an adverse impact on the marketplace for the works because defendants were able to charge less than competitors for coursepacks, given that they did not pay a licensing fee to plaintiffs.
Tags	Sixth Circuit; Education/Scholarship/Research; Textual work
Outcome	Fair use not found

Source: U.S. Copyright Office Fair Use Index. For more information, see <http://copyright.gov/fair-use/index.html>.