

**Peter Letterese & Assocs. v. World Inst. of Scientology Enters.,  
533 F.3d 1287 (11th Cir. 2008)**

Year	2008
Court	United States Court of Appeals for the Eleventh Circuit
Key Facts	<p>Plaintiff Peter Letterese &amp; Assocs. (PL&amp;A) acquired the exclusive rights for the book <i>Big League Sales Closing Techniques</i> (<i>BLS</i>). Within a year of acquiring the exclusive rights, PL&amp;A allowed <i>BLS</i> to go out of print and withdrew it from the market. After plaintiff and defendants' publisher failed to reach agreement on defendants' use of portions of <i>BLS</i> in training programs, PL&amp;A alleged defendants were infringing its copyright.</p> <p>The two defendants directly responsible for the allegedly infringing acts were the World Institute of Scientology Enterprises, Inc. (WISE) and the Church of Scientology International, Inc. (CSI). WISE assembled packets of course materials that contained portions of <i>BLS</i> material for sale to the general public ("course packets"). CSI created staff training materials that incorporated the sales techniques described in <i>BLS</i> ("staff training material"). Plaintiff appealed the district court's decision on summary judgment that defendants' uses of <i>BLS</i> for training purposes were permissible under the fair use doctrine.</p>
Issue	Whether the unauthorized reproduction of portions of a book on sales techniques for the purpose of creating training materials and sale to the public constituted fair use.
Holding	<p>The court ruled that defendant CSI's use of <i>BLS</i> for the staff training material qualified as fair use. But the court found genuine issues of material fact about whether using <i>BLS</i> for the WISE course packets precluded summary judgment in defendant WISE's favor.</p> <p>The court reached its conclusions primarily based on the fourth factor in the fair use analysis, the effect on the market. CSI's staff training material was heavily based on church leaders' writings, was significantly couched in Scientology terms/theories, and was offered internally to church officers who would not typically study <i>BLS</i>, so it did not infringe upon <i>BLS</i>'s primary or potential markets. On the other hand, based on the "unrestricted and widespread dissemination" of the WISE course packets, which were heavily derived from <i>BLS</i>, the court did not have sufficient evidence to determine whether WISE's copying undermined <i>BLS</i>'s primary or potential markets as a substitute product.</p> <p>The court viewed the first factor as weighing heavily against both WISE and CSI, deeming defendants' uses non-transformative because the course packs and staff training material did not reshape the instructional purpose nor cast the book in a different light through new meaning or expression. The court found the second factor to be neutral because, while part of <i>BLS</i> was factual in nature, it was couched in uniquely expressive terms. For the third factor, while the defendants' used a small portion of <i>BLS</i>'s material, what was used contained the "heart" of the book, therefore making this factor weigh slightly in plaintiff's favor.</p>
Tags	Eleventh Circuit; Education/Scholarship/Research; Review/Commentary; Textual work
Outcome	Preliminary ruling, mixed result, or remand

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