

**Compaq Computer Corp. v. Ergonome, Inc.,
387 F.3d 403 (5th Cir. 2004)**

Year	2004
Court	United States District Court for the Fifth Circuit
Key Facts	Plaintiff Ergonome, Inc. owned the copyright for <i>Preventing Computer Injury: The HAND Book (THB)</i> , which described ergonomically correct hand positions for computer users and techniques to avoid hand injuries. Defendant Compaq Computer Corp. created a guidebook, <i>Safety and Comfort Guide</i> , that was packaged with each Compaq computer and distributed to millions of customers. Defendant's guide contained four illustrations and seven phrases that were similar to photographs and phrases in plaintiff's book. The district court ruled that defendant's use of <i>THB</i> was fair use. Plaintiff appealed.
Issue	Whether the district court erred in finding fair use where defendant's guidebook included illustrations and phrases similar to the photographs and phrases found in plaintiff's guidebook.
Holding	The court affirmed the district court's determination that defendant's use was fair. In reaching its conclusion, the court weighed the fact that plaintiff had classified <i>THB</i> as a "factual teaching text" in favor of fair use. Also in favor of fair use, the court considered the fact that defendant had used "minimal portions," four illustrations and seven phrases out of <i>THB</i> 's approximately 100 pages and eighty-eight photographs. Finally, the court found that the impact defendant's distribution of the guidebook had on the potential market for <i>THB</i> did not weigh against a finding of fair use because plaintiffs had ceased actively marketing <i>THB</i> , and the potential market had already been thwarted by company managers reading the book and instructing employees on the techniques rather than instructing employees to purchase the work.
Tags	Fifth Circuit; Painting/Drawing/Graphic; Textual work
Outcome	Fair use found

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